

THE CALCUTTA REVIEW.

DECEMBER, 1861.

- ART. I.—1. *Considerations on Representative Government.* By John Stuart Mill. London: Parker, Son & Bourn. 1861.
2. *Constitution of United States of America, Framed by convention of Delegates from New Hampshire, &c. &c., at Philadelphia, September 17th, 1787.* New York.
3. *Constitution of Confederate States of America.*

THE indifference of Anglo-Indians to ordinary party politics, which excite such interest amongst their country-men at home, is a peculiarity which invariably strikes the attention of Europeans newly arrived in a country where almost everything is strange. A change of Ministry involving a change of the Secretary for India—an Amalgamation Bill destroying the hopes, plans and prospects of hundreds—or a Civil Service Bill hailed by some as a breaking down of a pernicious monopoly, stigmatized by others as a breach of covenant and a cloak for jobbery ;—such matters as these excite interest and become the subject of conversation, though rarely of discussion. But political questions unconnected with India, however important, not to Englishmen or Europeans only, but to mankind—questions of Parliamentary Reform, of Free Trade, of Tariffs, and such like—awaken but little interest in Anglo-Indian circles. When broad questions of Government in general are discussed—the principles of true or false democracy, the most beneficial distribution of political power between the Crown and consultative or legislative Chambers, unity or duality of Houses, whether the Head of the executive should be elective or hereditary, and such like, which form the subjects of Mr. Mill's latest work—still more rarely do we find even the most transient attention bestowed upon them by the great majority of Europeans in India either official or unofficial. We almost feel as if we owed some apology

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for intruding upon the notice of the Indian reader a work in which such questions form the main subject of discussion, and India is introduced but casually and secondarily. Let our excuse then be, that India appears to have been in the author's mind while writing more than one passage in which she is not directly named; and that the final chapter is chiefly devoted to the consideration of Indian government. And further; all who are interested in the welfare of India, must, for obvious reasons, watch with anxious attention the great struggle which is advancing so slowly in America. It is strange but true, that to many this deplorable contest seems a proof of the unsoundness of democratic institutions—'the bursting of the Republican bubble' as one sage of the Imperial Parliament expressed it 'in his place', receiving for his flippant ignorance the rebuke he merited. It is strange we repeat that Englishmen whose present liberties were won and consolidated by fierce and even bloody contests—the so called 'Great Rebellion,' the Revolution of 1688 and we may almost add the Reform Bill struggle of 1832—should point to the present struggle between Northern Democracy and Southern Aristocracy as a disgraceful failure of Republican institutions. It is but the fiery purifying, through which England herself had to pass in her march to her present proud position as one of the freest of the nations of the earth. From it Democracy in its purest, truest sense will emerge triumphant, as Civil and Religious freedom in England have emerged from her internal contests. But since the fact is undeniable that many do connect the present contest with the existence of republican institutions, let us hope that a brief statement and examination of the views of one of the greatest political thinkers of England upon Democracy and kindred subjects, will be read with patience by our Indian friends: and that the weight of Mr. Mill's authority will induce some at least to examine the grounds of the Anti-Democratic opinions which they hold; and to modify or reject such as may be found to be unsound.

It is conceded on all hands that Mr. Mill is at least worthy of a hearing. However shocking some of his views may appear to those who have insensibly imbibed, from childhood upwards, feelings of horror of democracy, or republicanism, without attaching any very definite ideas to these formidable words; or to others, who, with true insular self-complacency, regard English institutions as having already attained perfection, and believe that any change must be for the worse, Mr. Mill's views, speculations and suggestions are nevertheless worthy of attentive examination. All of us have opinions which have grown with our

growth, which have been so intimately blended with our mental constitutions that we have come to regard them as axiomatic—as primary intuitions of the human mind—and to doubt the possibility of other men differing from us in these points, unless over-clouded by ‘invincible ignorance,’ or blinded by self interest or impregnable prejudice. It is not of theological opinions only that this is true. In politics too we often need free discussion, open statement and honest examination of opponents’ views, with a full statement of the arguments adduced in their support, in order to impress upon our minds Bp. Butler’s simple but important caution—to remember that we differ from others, as much as they from us. There are no questions the free discussion of which is not beneficial to the fully developed and educated mind. Free discussion of views opposed to our own, and honest examination of the grounds on which our own are based, alone can give us true liberality of spirit; eradicating that narrowness of mind to which the best of us are prone, which sees no cogency in an opponent’s arguments, or weight in his opinions; and saving us from the dead level of uniformity of unquestioned opinions, the tendency to which in the present age Mr. Mill laments in his work on *Liberty*.

We propose in the following pages to lay before our readers, some of those views of Mr. Mill which are contained in his work on *Representative Government*; selecting those which appear to us most important to be known and discussed. Our object is to lay before readers, who have neither leisure nor inclination to read the work themselves, the principal opinions put forward after mature deliberation by a veteran logician and political thinker. We could scarcely find, in the whole range of English literary men, one more competent to teach; or one whose opinions, if we cannot accept, we can less venture to condemn. On Indian subjects, more particularly, few politicians, if any, are so worthy of an attentive hearing. A certain cynical member of the London press, not addicted to praising any one (except, perhaps, the house of Orleans, and Mr. Charles Kean), and not to be suspected of participation in Mr. Mill’s political opinions, informed us, some months ago, that he ‘is one of those few persons who are able to do a service to their country simply by discussing the subjects in which they are interested. Apart from the value of the opinions he expresses, the mere fact that Mr. Mill chooses to express an opinion on any matter of public importance is sure to turn the attention of a large body of readers and thinkers to the topic which he has selected.’

Having, in his First Chapter, laid down and examined ‘the

'three fundamental conditions of the adaptation of forms of government to the people who are to be governed by them;' viz.—that 'the people for whom the form of government is intended must be willing to accept it, or at least not so unwilling as to oppose an insurmountable obstacle to its establishment;' that 'they must be willing and able to do what is necessary to keep it standing;' and that 'they must be willing and able to do what it requires of them to enable it to fulfil its purposes;' Mr. Mill proceeds to inquire into the 'criterion of a good government.' Rejecting as illogical the division of the objects of government into the two heads of order and progress, (or Coleridge's Permanence and Progression)—pointing out that 'the agencies, which tend to preserve the social good which already exists, are the very same which promote the increase of it, and *vice versa*: the sole difference being, that a greater degree of those agencies is required for the latter purpose than for the former'—(p. 21): that 'it holds, universally, that when Order and Permanence are taken in their widest sense, the requisites of Progress are but the requisites of Order in a greater degree; those of Permanence merely those of Progress in a somewhat smaller measure,' (p. 24)—he concludes that the 'best government is that which is most conducive to Progress.' Further on he establishes a 'two-fold division of the merit which any set of political institutions can possess. It consists partly of the degree in which they promote the general mental advancement of the community, * * * and partly of the degree of perfection in which they organize the moral, intellectual and active worth already existing, so as to operate with the greatest effect on public affairs.' (p. 33)

While the latter of these two objects of government varies comparatively little in the various stages of civilization, which a people may have attained, it is far otherwise with the former. Institutions having for their object the training and intellectual advancement of the people themselves must differ radically, according to the actually existing degree of civilization. Mr. Mill regards the partial recognition of this truth by politicians of the present day as an important point of superiority over their predecessors. But its recognition is, we fear, still very partial. There still prevails amongst Englishmen, though of course, in an inferior degree, the same conviction, which stimulated the fierce propagandists of republican principles in the first French Revolution, that their own political institutions are of universal applicability; and that it is almost a sacred duty to bestow upon other people, however unfitted for them by the stage of civilization

they have reached, or by previous habits, either of turbulence or of passive obedience, a form of government as similar as possible to that which they themselves possess, and under which they have themselves grown great and free. It is not so very long ago, as to be foreign to the questions of the present day, since political institutions unfitted to the people were bestowed upon the Ionian Islands: and the consequence has been an utter mockery of the forms of representative government, and the attachment of the discredit which must always accompany inconsistency, political or personal, to the giver of institutions which have been nullified in practice. Other instances might be adduced. In India we have heard of 'representation,' in connexion with changes in the constitution of the councils; and Lord Canning's new Peripatetic council is supposed to supply 'representation' of native interests, as well as of those of unofficial Europeans. It is scarcely necessary to remark that with regard to our Indian fellow subjects such representation is altogether illusory: except in name it bears no resemblance to genuine representative government. That the people of this country are as yet unfitted for representative institutions, and evince neither aptitude nor desire for them, is unquestionable. That there exists not the slightest intention on the part of the ruling power to bestow them, and that such concession would in the existing stage of civilization be mischievous in the extreme, are also facts which few will question. But it is equally indubitable that it is a sacred duty of the Governing Power so to govern the subject people as to train them gradually to be capable of governing themselves. 'The one indispensable merit of a Government,' says Mr. Mill, 'in favour of which it may be forgiven almost any amount of other demerit compatible with progress, is that its operation on the people is favorable, or not unfavorable, to the next step which it is necessary to take, in order to raise themselves to a higher level.' Does our system of Government in India possess this 'indispensable merit'? Is there any intention or the faintest wish on the part of the rulers of India, to train her people to self-government, and then to abdicate their functions and resign their power into the hands of their former subjects? Is there any genuine desire to elevate the native to a higher political level? We fear these questions must receive a negative reply.

It may not be uninteresting to quote, from this chapter, Mr. Mill's emphatic refusal to admit two of the most prominently urged pleas in favour of modern slavery; namely, that it is necessary to the civilization of the negro, and that its effects upon the master are ennobling. Conceding that 'personal slavery,

‘by giving a commencement to industrial life, and enforcing it as the exclusive occupation of the most numerous portion of the community, may accelerate the transition to a better freedom than that of fighting and rapine;’ he adds, ‘it is almost needless to say that this excuse for slavery is only available in a very early state of society. A civilized people have far other means of imparting civilization to those under their influence; and slavery is, in all its details, so repugnant to that government of law which is the foundation of all modern life, and so corrupting to the master-class, when they have once come under civilized influences, that its adoption under any circumstances whatever in modern society is a relapse into worse than barbarism.’

In the course of his remarks upon, and illustrations of the principle that different stages of civilization and political advancement require different institutions in order to enable them to advance another step in the ascent to the ideally perfect system of government, Mr. Mill, as it appears to us, states somewhat too broadly certain propositions relative to the capacity of slaves for self government and political progress. ‘It is the characteristic of *born* slaves’ he says, ‘to be incapable of conforming their conduct to a rule, or law. They can only do what they are ordered, and only when they are ordered to do it. * * * A despotism, which may tame the savage, will only confirm the slaves in their incapacities. Yet a government under their own control would be entirely unmanageable by them. Their improvement cannot come from themselves, but must be super-induced from without.’

We do not think that the meagre materials which we possess for forming an opinion as to what slaves may be politically capable of, will fully bear out these and other similar propositions laid down by our author. Meagre indeed are the materials for a judgement on the question. From the history of ancient slavery in Greece and Rome we can learn nothing. There is no analogy between it—where the slave, most frequently a prisoner of war, was intellectually and morally the equal, and not seldom the superior of the master—and the modern institution where the slave is naturally and artificially below the master’s intellectual level. The known advance in prosperity and intellect of ‘born’ slaves, escaped, are beside the question; for they are brought into immediate contact and competition with a superior race. So far as we are aware, we have only the cases of Liberia and Hayti, from which to deduce conclusions as to the political capacities of slaves thrown entirely or principally upon their own resources. What little we know

of the former is decidedly favorable to the capacity for self-government in slaves, and those for the most part 'born' slaves.

The servile insurrection in Hayti, begun in 1791, and brought to a successful termination under Toussaint L'Ouverture in 1803 seems to us decisive in favour of our view. Jean François, the leader of the negro insurrection, described as a man of 'vast penetration,' was a born slave. Toussaint L'Ouverture, François' lieutenant, scarcely surpassed, as a general and an administrator, by any man of his age, whose military genius won the independence of his country, and whose civil administration raised her to a condition of the highest prosperity, was also born and bred a slave. The secret of the terrible conspiracy for the utter destruction of all the whites, and the establishment of an independent negro republic, kept with a fidelity to which there is no parallel in history, proved extraordinary powers of combination and self-restraint in the conspirators, two most important ingredients in the capacity for self-government, and political advancement. The burning of Cape Town by the negroes, to prevent the French from deriving any benefit from its occupation, has been not inaptly compared to the conflagration of Moscow by its patriotic inhabitants, with a similar view. The gallantry of the resistance of L' Ouverture and his black army to an overwhelming force of French has rarely been surpassed by free-born citizens fighting for long established liberties. The atrocities which stained the progress of the negro bands were not unrivalled by the bloody deeds of their white and 'civilized' enemies—nor, alas! did they much surpass the cruelties which our own day has seen on both sides of a bloody contest, in which no quarter was asked or given. We may add that Soulouque, who abdicated the Empire of Hayti, in favor of General Fabre Giffard in 1858, and who had during a reign of nine years displayed no mean talents as a general, and as a civil administrator (notwithstanding his ridiculous creations of Dukes of Lemonade, Marmalade, and so forth), was also a born slave.

From the principle that a good Government should not only administer rightly such of the affairs of the governed as properly come within its sphere, (what these are is discussed farther on), but should also educate the people in political duties, and promote their intellectual, moral and active advancement, by causing them to manage, as far as is expedient, their own affairs, and to take a lively interest in those things which it is advantageous should be done by Government, it logically follows that the rule of a 'good despot,' if such could be secured, is *not* the 'ideally best form of Government.' It is we think, impossible

not to agree with Mr. Mill in his opinion, that to suppose the management of the entire affairs of a mentally passive people by one man of super-human mental activity, to be the best form of Government, is a 'radical and most pernicious misconception of what good Government is.' It is an error by no means uncommon even among politicians who have devoted some thought to questions of Government; that it is an error, however, and a pernicious one too, is unquestionable in the case of a country at all advanced in civilization. To peoples in certain early stages of political existence despotic government alone is applicable; and a good despot must be superior to a bad one, for both objects of Government. But in a country which has made any advance in civilization and political development, neither of the propositions just stated as applicable to certain backward conditions of a people can be maintained. 'Evil for evil, a good despotism, in a country at all advanced in civilization, is more noxious than a bad one, for it is far more relaxing and enervating to the thoughts, feelings and energies of the people. The despotism of Augustus prepared the Romans for Tiberius.' (p. 53).

The 'ideally best polity' then is not a despotism, administered by a being of extraordinary, wisdom, energy and benevolence. It is, on the contrary, that in which every citizen, firstly, has a voice in the exercise of the sovereignty, and secondly, is 'called on to take an actual part in the Government, by the personal discharge of some public function, local or general,' such as by being members of a municipality or sitting on juries. This conclusion, however, requires to be qualified by being restricted to the 'circumstances in which it is practicable and eligible.' It is not practicable or eligible in all states of civilization.

Before leaving Mr. Mill's third chapter we have two or three brief remarks to make.

From the proposition that 'each is the only safe guardian of his own rights and interests,'—an elementary maxim of prudence—'it would seem to follow that the suffrage is the *right* of every citizen. The claims of all to participate in 'the sovereign power' is, in Mr. Mill's view undeniable. And yet in chap. x. Mr. Bright and his school of democrats are taken to task for maintaining that the franchise is a 'right, not a trust.' (p. 191). There appears to us to be an inconsistency here. 'No man,' says Mr. Mill, in the latter passage, 'can have a right (except in the legal sense) to power over others: every such power, which he is allowed to possess, is morally in the fullest force of the term a trust. But the exercise of any political function, either as an elector or as a representative, is

'power over others.' But surely a man may have a *right* to as much power over others as others have over him; or to as much as is necessary for the protection of his own interests against the power of others. Nor does there seem to us to be the opposition between a 'right' and a 'trust,' which is implied in this passage, and in the ordinary discussions upon the subject. A man may have a right to the franchise and yet his exercise of it may be a trust. 'If it is a right,' says Mr Mill, 'how can we blame a man for selling it?' But there are restrictions upon the exercise of every right. A man may, generally, 'do what he likes with his own,' but he may not set fire to his own house if it stands between two others, not his own. The exercise of his right over his own property is restricted by moral and legal considerations—is, in a certain sense, a trust for the public benefit. The franchise may also, in the same way, be without inconsistency, both a right and a trust.

We cannot agree with Mr. Mill in his optimist view that 'communism would even now be practicable amongst the *élite* of mankind, and may become so among the rest' (p. 55). If the former part of the proposition be in any sense admissible, the term *élite* must be so restricted in its application as to include very few individuals. There is no combination of circumstances existing at the present day so favorable, by many degrees, to communism as was the condition of the early Christians. Communism will never again have so fair a trial as it had when 'as many as were possessors of lands or houses sold them and brought the prices of the things that were sold, and laid them down at the apostles' feet, and distribution was made unto every man according as he had need.' 'But a certain man named Ananias, with Sapphira his wife' succeeded in proving the inapplicability of the system even to those who must be regarded as having been the '*élite* of mankind,' considered with reference to the moral qualities essential to the practice of Communism.

Similar optimism appears in the following passage. 'We, need not suppose that when power resides in an exclusive class, that class will knowingly and deliberately sacrifice the other classes to themselves.' Instances will occur to the mind of every one of legislation in which it is obvious that there was something more (and worse) than the mere 'overlooking of the interest of those excluded' from political power and opportunity of representing their view of the case. The atrocious Penal Laws; the systematic sacrifice of Irish to English interests real or supposed, by the English Crown and Parliament; the maintenance of the Corn Laws by the agricultural interest; the Game

Laws still unrepealed; the refusal of any security for 'tenant right' by a parliament from which tenant farmers are practically excluded; are but a few out of many examples. The suggestion by wealthy natives of this country that a poll-tax should be substituted for the Income-Tax shows the feeling, co-extensive with human nature, from which 'class legislation' springs: and proves that there is no necessary connection between selfishness and the development, greater or less, of the pigmentary layer of the human skin. May we take another example from India in the proposal to exempt the Civil Service from the pre-Wilsonian Income-Tax? Or shall we accept the explanation, rather diffidently offered, of so extraordinary and suspicious a proposition?

Nor does Mr. Mill believe that the classes which do participate in the government have in general any intention of sacrificing the working classes to themselves; although he admits that 'they once had that intention; witness the persevering attempts so long made to keep down wages by law.' It is not very long since the ten hours Factory Bill was bitterly opposed by the mill owners, because it was supposed to be detrimental to their own interest, not on politico-economical principles on which is based the disapprobation of such measures by writers in the Westminster Review and others. Recent investigations into branches of manufacture not affected by the ten hours Bill have shown the necessity of extending it or similar protection to other victims of trade. We shall be agreeably disappointed if such a measure is allowed to pass without strenuous opposition, on self-interested grounds alone, from the 'masters.'

Mr. Mill's discussion of the cases in which representative government is inapplicable, (chap. IV.) need not detain us long. No one doubts that representative institutions are applicable to England and those of her colonies into which they have been introduced. It is equally certain that they are *not* applicable to this country, in its present condition. One passage we shall quote, in which though India is not named, she would seem to have been present to the writer's mind.

'The case most requiring consideration in reference to institutions is the not very uncommon one, in which a small but leading portion of the population, from difference of race, more civilized origin or other peculiarities of circumstances, are markedly superior in civilization and general character to the remainder. Under these conditions government by the representatives of the mass would stand a chance of depriving them of much of the benefit they might derive from the greater civilization of the superior ranks: while government by the representatives

‘ of those ranks would probably rivet the degradation of the
‘ multitude, and leave them no hope of decent treatment except
‘ by ridding themselves of one of the most valuable elements of
‘ future advancement. The best prospect of improvement for a
‘ people thus composed is in the existence of a constitutionally
‘ unlimited, or at least a practically pre-ponderant, authority in
‘ the chief ruler of the dominant class. He alone has by his posi-
‘ tion an interest in raising and improving the mass, of whom he
‘ is not jealous, as a counterpoise to his associates of whom he is.
‘ And if fortunate circumstances place beside him, not as controllers
‘ but as subordinates, a body representative of the superior caste,
‘ which by its objections and questionings, and its occasional out-
‘ breaks of spirit, keeps alive habits of collective resistance, and
‘ may admit of being, in time and by degrees, expanded into a
‘ really national representation * * * the nation has then the
‘ most favorable prospects of improvement which can well occur
‘ to a community thus circumstanced.’ (pages. 81 82).

With little change we think this passage is applicable to the past and present government of India. Substituting for ‘ chief ruler’ the collective Civil Service, and taking the unofficial European community, (including, of course, the newspaper press), as the ‘ body, representative of the superior caste’ &c, we have a tolerably accurate representation of the Anglo-Indian Government.

The chapter on the proper Functions of Representative Bodies is one of the most important in the book. We shall briefly notice some of its leading points and practical suggestions.

First, then, the admirably exact balance of power among three constituent forces, for which the British constitution is popularly lauded, does not, and cannot exist. ‘ The power of final control is as essentially single, in a mixed and balanced government, as in a pure monarchy or democracy,’ (p. 86) : and in the British Constitution the House of Commons is ‘ the real sovereign of the state.’ By the letter of the constitution, Crown, Lords, and Commons each possess unlimited power of obstructing all the business of government. ‘ Nominally, therefore, each body is invested with equal power of thwarting the others ;’ and so far the equilibrium is exact. But this possibility of obstruction is effectually over-ruled by the ‘ unwritten maxim of the constitution—in other words, the positive political morality of the country.’ This, for instance, renders it impossible for the Crown to retain a Minister who is unsupported by a majority of the House of Commons, although there is no obstacle in the letter of the constitution. This rendered possible not long since, to the surprise of many, the exercise

of a dormant power in the House of Lords to reject a money-bill which had passed the other house: and the same 'constitutional morality' will probably prevent the repetition of the experiment: for the national conscience in matters political is susceptible of modification—of increased refinement or of deterioration. The unwritten rules which may be said to constitute it are 'only effectual, and maintain themselves in existence 'on condition of harmonizing with the actual distribution of real 'political strength.' As therefore the latter changes, so will the national views of constitutional morality.

Secondly, Mr. Mill strongly condemns the tendency of representative bodies to interfere more and more in the details of administration. It is their proper function to control the performance of these details, not themselves to do the business of Government. It is theirs to deliberate and discuss, 'to secure 'hearing and consideration to many conflicting opinions.' But their interference in details of administration, however well meant, is almost always injurious. In regard to them their duty is 'not to decide them by their own vote, but to take care 'that the persons who have to decide them shall be the proper 'persons.'

Thirdly, 'it is equally true, though only of late and slowly 'beginning to be acknowledged, that a numerous assembly is as 'little fitted for the direct business of legislation as for that of 'administration' (p. 97). We have little hope that the House of Commons will ever be induced to give up the privilege which they now enjoy, and of which they freely avail themselves, of tinkering at the Statute Book. Nor is the mischief confined to the Lower House. It is not long since we saw a measure of the utmost importance to the commercial world—the consolidation and amendment of the Bankruptcy Laws—ruthlessly mangled, before its parents' eyes, by the House of Lords* to whom Mr. Mills attributes, we think justly, less fondness for meddling, and better practice in the matter of legislation, than to the Commons. Instances of the mischief and absurdities resulting from the present system of legislation might be specified to an extent sufficient to convince and convert any people less conservative of anomaly than the English. Clauses interpolated and amendments carried in thin and weary houses, rendering the Act nugatory or self-contradictory, and requiring an amending

* We may observe in passing that the interference of the House of Lords in this case has not been without suspicion of having been dictated by class-feelings.

Act next session, are not unusual results of House of Commons legislation. The case is well known in which the punishment attached to some crime was 'amended' from fine to imprisonment, (or whipping,) while the succeeding clause awarding 'half the amount' to the informer remained unchanged. Nor is the time wasted in the discussion and re-discussion of every separate clause in a 'miscellaneous assembly,' consisting of sciolists and the absolutely ignorant as well as of the learned in law, and conceding to all three classes, equally and alike, unlimited power of speech-making, the least evil of the present system.

The main features of Mr. Mill's proposed remedy for it may be stated in a few words. All Bills should be prepared by a commission of legislation, the members to be appointed by the Crown, for a term of five years, unless removed for personal misconduct, or refusal to draw up a Bill ordered by Parliament. Either house should have power to accept, reject, or send back to the commission a Bill; but not to alter it. It is difficult to conceive any objection to this plan, and impossible not to see the immense advantages which would result from its adoption. The appointment of a Legislative Member in the Indian Legislative Council has amply illustrated by its results the benefit of entrusting the preparation of Bills to trained professional lawyers: and this is an example which our readers will, perhaps, more fully appreciate than Mr. Mill's instance of the Athenian *Nomothetæ*.

We must now leave this important chapter after briefly pointing out Mr. Mill's opposition to a loud and frequent cry of the present day, that there is too much 'talk' in Parliament.

'I know not,' he says, 'how a representative assembly can 'more usefully employ itself than in talk, when the subject of 'talk is the great public interests of the country, and every 'sentence of it represents the opinion either of some important 'body of persons in the nation, or of an individual in whom some 'such body have reposed their confidence. * * * * Such '“talking” would never be looked upon with disparagement if it 'were not allowed to stop “doing,” which it never would if assemblies knew and acknowledged that talking and discussion are 'their proper business, while *doing*, as the result of discussion, is 'the task not of a miscellaneous body, but of individuals specially 'trained to it: that the fit office of an assembly is to see that 'those individuals are honestly and intelligently chosen, and to 'interfere no further with them, except by unlimited latitude of 'suggestion and criticism, and by applying or withholding the 'final seal of national assent.' (p. 105-6.)

Having vindicated representative government from the supposition of essential inferiority to 'simple monarchy' in energy, and to aristocracies in steadiness and prudence—in the latter case by pointing out that the aristocracies 'which have been remarkable in history for sustained mental ability, and vigour in the conduct of affairs' have been really bureaucracies—Mr. Mill compares representative democracy with bureaucracy, as regards the intellectual attributes of the two forms of government. The result is, on the whole, unfavorable to the latter, even after the admission that it 'has in some important respects, greatly the advantage.' We experience, in this country, some of the disadvantages of bureaucratic government, and can appreciate the remark that 'the disease which afflicts,' such Governments, 'and which they usually die of, is routine.' Russia and China are cited as striking examples. The necessity of 'an outside element of freedom to enable' a bureaucratic Government 'to do effectually or permanently even its own business' and its powerlessness to do other things which a free Government can do, are shown. We then come to an examination of the evils likely to result in a representative system of government from preponderance of interests more or less conflicting with the public good.

That this cause is the source of most of the evils incident to monarchical and aristocratic governments—that the monarch or the aristocracy has interests opposed to those of the community and will rule so as to promote them—is undeniable. But it is equally certain, though not, perhaps, equally apparent, or equally universally admitted, that democracy in its false, but most ordinary sense—government by the numerical majority—is by no means free from similar injurious influences. It is more than possible that class interests may preponderate to such a degree as to overwhelm 'impartial regard for the interests of all.'

'One of the greatest dangers, therefore of democracy, as of all other forms of Government, lies in the sinister interests of the holders of power; it is the danger of class legislation, of government intended for, (whether really effecting it or not) the immediate benefit of the dominant class, to the lasting detriment of the whole.' (pp. 127-8). The security against this great evil 'would be that no class, and no combination of classes likely to combine shall be able to exercise a preponderant influence in the government.'

This security can be provided only by the REPRESENTATION OF MINORITIES.

It will be startling to many to hear, on Mr. Mill's authority, that there is not at present any example of 'democracy,' in its

only proper sense. The distinction between true and false democracy cannot be too frequently or forcibly impressed upon the public mind. The ordinary objections to democratical government are applicable only to the latter. It is difficult to understand how any politician, unblinded by inveterate prejudice or class interest, can object to the former, at least in its theoretical expression, however he might differ from others in his opinion upon the best way of working out the theory into practice. The vitally important distinction between true democracy and its spurious representative—the disfranchisement of minorities constituting the essential vice of the latter—cannot be more briefly or forcibly stated than in the following passages from Mr Mill's seventh chapter.

‘Two very different ideas are usually confounded under the name democracy. The pure idea of democracy, according to the definition, is the government of the whole people by the whole people, equally represented. Democracy, as commonly conceived and hitherto practised, is the government of the whole people by a mere majority of the people, exclusively represented. The former is synonymous with the equality of all citizens; the latter, strangely confounded with it, is a government of privilege, in favor of the numerical majority, who alone possess practically any voice in the State. This is the inevitable consequence of the manner in which the votes are now taken, to the complete disfranchisement of minorities.’ (pp. 131-2.)

‘In a really equal democracy, every or any section would be represented, not disproportionately, but proportionately. A majority of the electors would always have a majority of the representatives; but a minority of the electors would always have a minority of representatives.’ (p. 133). ‘Now nothing is more certain than that the virtual blotting out of the minority is no necessary or natural consequence of freedom; that far from having any connexion with democracy, it is diametrically opposed to the first principle of democracy, representation in proportion to numbers. It is an essential part of democracy that minorities should be represented. No real democracy, nothing but a false show of democracy, is possible without it.’ (P. 137-8).

Such are our author's opinions upon this important subject. Our readers can judge of their soundness for themselves. The means by which the required representation of minorities may be secured we cannot now discuss. Suffice it to say that Mr. Hare's plan, (which has obtained Mr. Mill's unqualified approbation), appears perfectly feasible and capable of fully effecting its object. Let us add that this or a similar measure is eminently

worthy of conservative support. The time is probably not far distant when the only alternative to such fair and equal representation of, and government by all, will be government by the numerical majority. We see and do not admire, the consequences of the latter in the United States. We cannot but fear that in this matter delay is dangerous. Extension of the suffrage in England is ultimately inevitable; however long it may be staved off by the 'governing classes.' Every step in this direction has obviously a tendency to substitute the 'class ascendancy of the poor for that of the rich.' We agree with Mr. Mill in believing that this class ascendancy is not at present desired by the working classes of England, and that they 'would as yet be content with protection against the class legislation of others, without claiming the power to exercise it in their turn.' But how long such moderation may continue, none can tell. And let it be remembered that in matters of franchise, and admission to political power, retrogression is impossible. Once let the 'numerical majority' in England bear sway, as they do in the United States, and nothing (short of a bloody revolution) can wrest their power from their hands. Security against this calamity would be cheaply purchased by concession of equal representation to all.* It is the only price and should be quickly paid. Given, then, a constitution in which minorities were fairly represented, and government by the numerical majority, or by class interests, should be almost, or quite, impossible. Mr. Mill would bestow the franchise upon *every adult*, with some restrictions to be specified hereafter. Universal suffrage (the expression '*manhood* suffrage' is not, as we shall see, sufficiently comprehensive), would be based upon two considerations—the intellectual and moral improvement of the people by participation in political acts, and the fact that 'it is a personal injustice to withhold from any one, unless for the prevention of greater evils, the ordinary privilege of having his voice reckoned in the disposal of affairs in which he has the same interest as other people. If

* In an article in the August number of *Fraser's Magazine*, on the causes of the disruption of the American union, an article as vituperative and virulently anti-American as the *Saturday Review*, so much so that the Editor felt himself compelled to disclaim participation in its views—the Representation of Minorities is opposed on the ground that the minority is already virtually effective, inasmuch as it countervails a number of the majority equal to itself! To give it more influence than it thus exerts would be to bring it forward into action a *second time*. Now it is clear that what either a majority or a minority wants is to have its wishes and opinions represented. Those of the majority are represented through the effective influence of their un-neutralised portion. Those of the minority are not represented at all.

‘he is compelled to pay, if he may be compelled to fight, if he ‘is required implicitly to obey, he should be legally entitled to ‘be told what for; to have his consent asked, and his opinion ‘counted at its worth, though not at more than its worth.’

On the latter ground for universal suffrage it is unnecessary to dwell. The ‘greater evils’ being *ex hypothesi* prevented, the principle involved must be conceded.

In proof of the former—that the exercise of political functions, and consequent discussion of political questions, are potent influences in the intellectual cultivation of a people—M. de Tocqueville’s estimate of the American people is cited; his observation that every American is in some sense both a patriot and a person of cultivated intelligence, corroborated by the evidence of other travellers; and his demonstration of the close connexion between these qualities and the democratic institutions under which they live. ‘No such wide diffusion of the ideas, tastes, ‘and sentiments of educated minds, has ever been seen elsewhere, ‘or even conceived of as attainable.’

We are merely giving an outline of Mr. Mill’s views upon the extension of the Suffrage, as stated in his Eighth chapter, without adding comment or opinion of our own. It only remains to specify the restrictions, before alluded to, which our author would impose.

Firstly, none should vote who could not read, write and ‘perform the common operations of arithmetic.’ The opportunity of acquiring this moderate amount of education should be provided by society; and ‘universal teaching must precede universal ‘enfranchisement.’

Secondly, those who elect the men who vote the taxes, should themselves pay something towards the taxes imposed. Other exclusions separately specified by Mr. Mill would seem to be implied in this one. For instance, recipients of parochial relief should be peremptorily disqualified. The certificated bankrupts and insolvents until debts are paid, or satisfactory proof adduced of independence on eleemosynary support, are also excluded. Non-payment of taxes, not arising from inadvertence, should also disqualify. To the category of exclusion convicted criminals should, we presume, be added; though they are not mentioned by Mr. Mill explicitly, nor apparently included in any of his specified classes. We must not omit to notice that one class, comprising more than one half of the adult population, but, nevertheless, ruthlessly disfranchised by most even of the wildest democratic theorists, is *not* excluded from political power and privileges by Mr. Mill. We cannot pause to give a summary

of the arguments in favor of giving votes to *women*, equally with men. There will be to many minds, something ludicrous in the proposal, whether there be any justification for a smile or not. We shall only remark that it will be easier to laugh at the idea of extending the franchise to women, than to reply to Mr. Mill's arguments in its favor, or even to show that, though logically defensible, the thing is practically inexpedient. The latter is the line usually adopted by opponents when they condescend to consider the question as worthy of serious argument.

Plural voting, based, not upon pecuniary differences, but upon educational superiority, would form an essential constituent of Mr. Mill's electoral system. 'Superiority of influence in consideration of property' is, in his opinion, 'entirely inadmissible, 'unless as a temporary makeshift.' So-called superiority of birth would, we should suppose, be equally inadmissible, but our author does not say so, and elsewhere guards himself most carefully against the imputation of wishing to abolish the House of Lords as at present constituted. Property he admits to be a rough test of education; but believes in the possibility of approximately ascertaining different degrees of mental superiority, to which alone superiority in electoral influence should be conceded. In the absence of 'a really national education or a trustworthy system of general examination,' the nature of a person's education is some test. Thus, the unskilled laborer, the skilled laborer, the employer of labor, the tradesman, the banker, merchant or manufacturer, members of liberal professions or graduates of universities, may be supposed, from the nature of their respective employments, to possess different degrees of intelligence and would enjoy plurality of votes accordingly. It only remains to add 'that it is an absolutely necessary part of the 'plurality scheme that it be open to the poorest individual in the 'community to claim its privileges if he can prove that, in spite 'of all difficulties and obstacles, he is, in point of intelligence, 'entitled to them.' Such is Mr. Mill's plan for giving due weight to education and mental superiority. Although the principle of plural voting has been sanctioned by practice in some cases of local taxation—the plurality being, however, dependent upon the amount of tax paid by the voter—we cannot think that there is any probability of Mr. Mill's, or similar, suggestions being acted on. Educational and mental superiority must rest content with the influence which the cultivated mind exercises over the uncultivated, and the partial representation of the Universities.

The question discussed in the ninth chapter—whether there should be two stages of election; that is, whether the people should elect electors who should choose the members of Parliament—appears to us to be completely disposed of by the conspicuous failure of the system in one remarkable instance. Article II. Sect. 2. of the Constitution of the United States thus provides for the election of the Federal President.

‘Each State shall appoint, in such manner as the Legislature thereof may direct, a number of Electors, equal to the whole number of Senators and Representatives to which the state may be entitled in the Congress; * * *’

These Electors are now, in all the states, as our readers are aware, chosen directly by the people. Their mode of electing the President and Vice-President of the union is thus laid down in the Amendments to the constitution, Article XII.

‘The Electors shall meet in their respective States, and vote by ballot for President and Vice-President * * * *; and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign, and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall in the presence of the Senate and House of Representatives open all the certificates and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then, from the persons having the highest numbers not exceeding three, on the list of those voted for as President, the House of Representatives shall choose, immediately by ballot, the President. * * * *’

The evident object which the framers of the constitution had in view, in devising this somewhat complicated machinery for the election of the President, and Vice President, was to interpose a select body of Electors between the people and the actual choice of the President. The Electors were, not only nominally, but really to choose, according to the best of their judgement, the most eligible of those who had offered themselves as candidates to fill the highest offices of the Federation. But we know that this system has altogether failed in practice. The Electors are chosen, not on account of their supposed fitness to select the best of the candidates, but because they are pledged to vote for particular men—the pre-determined choice of the primary electors. The Presidential Electors for every state once known, the

future President and Vice-President are also known. The subsequent examination of the Electors' voting papers, and promulgation of the result of the election, on the fourth of March, are as unnecessary, and as complete a 'sham,' as the report of the choice of an English bishop by the Dean and Chapter, pursuant to the *congé d'élire*.

There is one case in which election by two stages is found practicable, and the result decidedly satisfactory. This is when the electors are not chosen solely or primarily for the purpose of the election, but perform the latter function in addition to other equally or more important duties. They are not, therefore, pledged to vote for any particular person or persons. The members of the United States Senate are thus chosen by the Legislatures of their respective states. It is found that this plan ensures the presence in the Senate of the ablest politicians that the country produces. It cannot be denied that the Senate contrasts most favorably with the House of Representatives, the product of direct popular election.

Another instance of secondary election occurs to us, which, we believe, works well in practice. The lower house, in the Norwegian constitution, selects (from its own body) the members of the upper chamber.

With regard to the mode of voting, considered in the tenth chapter, we shall say little more than that Mr. Mill is opposed to the ballot in the election of parliamentary representatives. He admits that cases may occur, and have occurred, in which vote by ballot would be, or would have been, the less of two evils. 'Thirty years ago,' he says, quoting from his pamphlet on Parliamentary reform, 'it was still true that, in the election of members of parliament, the main evil to be guarded against was that which the ballot would exclude—coercion by landlords, employers, and customers' (p. 195). We have no doubt that such coercion is still practised to a much greater extent than our author seems to suppose. This is especially the case in one part of the United Kingdom, where, in addition to landlord coercion, a still more pernicious influence than any of those particularised by Mr. Mill is systematically brought to bear upon the electors—the influence of a violent, illiberal, and politically uneducated clergy. Whether the ballot would be a remedy for this last evil or not, we cannot pause to discuss; but it would seem to be a case in which on Mr. Mill's principles, secret voting would be not only admissible but desirable.

With regard to India, difficult as it is to conceive the people, or any large proportion of them, as capable of being entrusted

with the franchise, it is still more difficult to imagine them as exercising it without the ballot, or some other protection against external pressure.

Mr. Mill's 'decisive reason why the argument does not hold, 'from the use of the ballot in clubs and private societies to its 'adoption in parliamentary elections', does not appear to us at all conclusive. 'A member of a club is really' he says, 'what the 'elector falsely believes himself to be, under no obligation to consider the wishes or interests of any one else'. We think that the member of a private club is bound to consider the interest both of the club and of the other members. The difference between the two cases appears to us, if it exist at all, to be one, not of kind, but of degree. In the case of literary and scientific societies, in which the ballot is universally employed, without objection, the voter is most certainly under an obligation to consider more than his own wishes or interests. Surely the object for which the Society was instituted ought to take precedence of these in the voter's mind; the essential difference, therefore, between political voting and that of clubs and societies, which (according to Mr. Mill) renders the use of the ballot applicable to the latter, but inadmissible in the former, does not, we venture to think, exist. Other grounds there may be, for drawing a broad line of distinction between the two cases. We are neither advocating the ballot, nor arguing against it. It is not therefore our province to discuss the subject further. We are merely expressing our opinion that Mr. Mill's 'decisive 'reason' does not appear to us by any means decisive of the question.

The recently passed Universities Election Bill is neither mentioned nor alluded to by our author. Its principle—the permission to non-resident electors to vote by letter—receives emphatic condemnation. 'The proposal which has been thrown out,' (in connexion with Mr. Hare's scheme, which involves the use of voting-papers), 'of allowing the voting-papers to be filled up at 'the voter's own residence, and sent by post, or called for by a 'public officer, I should regard as fatal' (pp. 203-4). Perhaps Mr. Mill would allow an exception in the case of University electors, in consideration of their superior education, and consequent supposed inaccessibility to certain feelings and motives, which render publicity in giving a vote desirable as a general rule. Subsequently, in some remarks upon the subject of a Second Chamber, he allows the privilege of vote by proxy—another form of absent voting—to Peers, which he would not, we presume, concede to ordinary electors.

Passing over the chapters on duration of Parliaments, and on pledges, we come to that which treats of a Second Chamber, to which we propose to devote a little attention. The use of a Second Chamber in a political constitution would seem to be to fulfil one or more of the following objects: 1st, the representation of classes or bodies otherwise unrepresented; 2nd, the operating as a check upon ultra-democratic tendencies in the more popular house; 3rd, the securing a second deliberation upon, and discussion of every question, and the consequent prevention of precipitancy; 4th, the gratification of a conservative feeling, (which some would call an 'instinct' and others a 'prejudice'), when a second chamber has existed for a long period, having at one time been useful, although now become inefficient; 5th, the representation of personal merit, as contra-distinguished from popular feeling—the constitution of a 'chamber of statesmen, a council composed 'of all living public men who have passed through any important political office or employment.' The last is Mr. Mill's notion of what an upper chamber ought to be, and we shall give presently, in greater detail, his views as to the proper constitution of such a house.

The typical example of a *representative* upper chamber is presented by the congress of the United States. The senate at Washington consists of members, two from each state; whether it be New York, which sends thirty-five members to the House of Representatives, or Delaware or Florida which sends but one. The senators represent the states. We know of no other instance in which the upper House is purely representative of classes or interests which are not, or may not be, fully represented in the other branch of the Legislature.* The English House of Lords is obviously not an instance of the kind.

Mr. Mill attaches little importance to the existence of a Second Chamber as a restraint upon the democracy. If the democratical feeling in the popular House be supported by the public feeling of the country—as it is sure to be if the House be really representative—an aristocratic chamber will be powerless as a check. He says:—'I cannot believe that in a really democratic state of society the House of Lords would be of any 'practical value as a moderator of democracy. The really moderating power in a democratic constitution, must act in and 'through the democratic House.' (p. 234). Nor, is a second chamber necessary in order to 'prevent precipitancy and compel

* The Roman Senate was *at first* a purely elective and representative body. The Prussian Upper Chamber is partly composed of members representing 'the landed interests.'

‘a second deliberation ; for it must be a very ill-constituted representative assembly in which the established forms of business do not require many more than two deliberations.’

We shall now give, as briefly as possible, an abstract of our author's suggestions for the composition of a senate after his own heart, ‘if the place were vacant ;’ and for the grafting of an efficient upper chamber upon the present House of Lords, the absolute extinction of which he appears not to hope for and certainly does not expect. It would be a mistake to suppose that discussions or suggestions upon this subject are destitute of all practical interest. There are not wanting signs that the supineness, and neglect of public duty, of the House of Lords are beginning to attract attention and produce dissatisfaction in a people not disposed to be exacting in the case of their hereditary legislators. A recent instance in which youthful peers not previously known to enter their House, except for purposes of parade, mustered strongly at the crack of the party whip, to vote upon a question of whose merits they knew nothing, and about which they cared nothing—a question, moreover, which they decided in opposition to the deliberate opinion of the popular branch of the legislature—has done much to strengthen a growing feeling in the country that the House of Lords needs Reform, from which neither Crown nor House of Commons has escaped. The attempt to introduce life peerages, in the case of Lord Wensleydale, unfortunately unsuccessful, was an exponent of the prevalent opinion that the constitution of the hereditary House is capable of improvement. The following extracts from an article which appeared some months ago, in a journal whose leanings are anything but democratic, are even more important evidence of the fact that Reform of the House of Lords, if not imminent, is at least not very far distant ; and that, consequently, consideration of the subject by statesmen, and suggestions by Mr. Mill, are not of merely speculative interest.

‘On ordinary nights,’ we are told, ‘the usual audience [in the House of Lords] will be about six—two ministers, two chiefs of opposition, a young peer who hopes to get a chance of speaking, and a Bishop meditating upon the approach of dinner-time. There is no kind of animal to which the Peers show such a determined and inflexible dislike as to a young member of their own body afflicted with a taste for public affairs. With one or two exceptions * * * the succession of Peers is absolutely cut off, and the future eminence of the house depends entirely upon the recruits it receives from the House of Commons. [*e. g.* Lord Lyveden and Sir C. Wood?] ‘The most pernicious

‘ alternative to which we can be reduced is that of a sham second chamber, itself only taking a perfunctory part in the business of legislation, and yet by its presence excluding the possibility of a more efficient substitute.’

Mr. Bright himself would scarcely describe the supineness and inefficiency of the House of Lords in severer terms than these, extracted from the columns of his relentless, and not unfrequently scurrilous, enemy, the *Saturday Review*.

The members of Mr. Mill’s Senate, if the ground were clear to build upon anew—or the members whom he would add to the existing chamber, since ‘ any second chamber which could possibly exist would have to be built upon the foundation of the House of Lords’—would be as follows: the members of the Legislative Commission before described; heads and ex-heads of the superior Courts of Law and Equity; puisne Judges of five years standing; all who have held any Cabinet Office for two years; or who have been Commanders-in-Chief, or have been thanked by Parliament for military or naval services; Governors-General of India or British America, and Colonial Governors of ten years standing; and all who had filled for ten years the offices of Under-Secretary to the Treasury, permanent Under-Secretary of State, or equally important appointments. ‘ The functions conferring the senatorial dignity should be limited to those of a legal, political, military or naval character, scientific and literary eminence are too indefinite or disputable.’ We are not prepared to agree with our author in his exclusion of science, art, and literature from his proposed Senate. Any one could enumerate many such names as Owen, Faraday, Herschel, Tennyson, Brodie, Stokes, whose eminence is definite and indisputable. The Crown might have a limited power of nomination to the Senate, with the restriction of having to state officially the ground of each selection. The control of public opinion would ensure the nomination, as a general rule, of only really eminent scientific and literary men. Some bad appointments would doubtless be made; but we in India can conceive cases in which the elevation *ex officio* of ‘ Secretaries of State’ to the upper chamber would add neither special knowledge nor political wisdom to Mr. Mill’s model senate. It being ‘ out of the question to think practically of ‘ abolishing’ the present house of Lords, Mr. Mill would add to it the members specified above, as life peers. He would go farther still in the way of reform, by admitting the hereditary peers only by representatives; as the Irish and Scotch peerages are now admitted, ‘ which the mere multiplication of the order will probably ‘ at some time or other render inevitable;’ and he would apply to

the election of representative peers Mr. Hare's plan for ensuring the representation of minorities.

We have already casually mentioned that the Second Chamber in the Norwegian Constitution is elected by the other. Mr. Mill suggests this plan as 'another possible mode of forming a 'second chamber'; but adds the restriction 'that they should not 'nominate any of their own members.'

The body which Mr. Mill would construct, partly out of the present House of Lords, and partly of new and sounder material, would resemble, (one important point excepted) the Roman *Senatus* in its period of full development and most brilliant and successful administration. In it, certain high officials, who had been chosen to fill their offices by the people, were entitled to a seat when this term of duty had expired, unless disqualified by misconduct, and in consequence passed over, (*preteriti*) by the censors. These members corresponded to the proposed life peers, who would become members of the Chamber *ex-officio*: and, though not immediately, would be indirectly chosen by the people, either through the control of public opinion and the press, (as in the case, for instance, of Judges,) or by their representatives in the Lower House, who may be said to choose Secretaries of State and similar officials. Besides these *ex-officio* members, the censors filled up vacancies from the Equites, as the Crown creates Peers out of a corresponding rank, and with, apparently, as little restriction as is placed by public opinion in England upon the exercise of this prerogative of the Crown. The essential difference between the Roman and the reformed English Senate would be the hereditary principle, which could not readily be eliminated from the latter, while in the former the senators were merely 'peers for life.' The presence in the Chamber of members destitute of every qualification for their important office, would probably result as frequently from partiality on the part of the Censors or other selecting officers, in the Roman Senate, as it does from the hereditary principle in the British House of Lords. There would be a striking resemblance between the two senates, in composition and in results.

In many modern Second Chambers, (which, forming part of written constitutions, may almost be called 'artificial' in contrast with such bodies as the Roman Senate and English House of Lords, the result of growth and modification, through the course of centuries), the members are elected directly by the people, in the same way as the members of the lower House. The Senates of the several States, united to form the American Federation, are thus elected. In Canada, the province is divided into forty-eight sections, each of which returns one member to

the Upper House. One fourth of these are elected every two years, and the twelve go out of office at the end of eight years. This House, we may add, can neither be dissolved by the Governor-General, nor is it, like the lower Chamber, limited to an existence of four years. The Senate of the Spanish Cortes, which dates from 1845, is differently constituted. The members are all nominated by the Sovereign, who is, however, restricted in his choice to persons who hold, or have held, high offices in the state, and to the class of hereditary grandees whose annual income is not less than about £212, (30,000 reals). This Chamber seems to have been modelled after the Roman Senate.

At the risk of exciting a smile we shall bring forward one more example of a popularly elected second chamber; or perhaps we should rather call it an executive council. In that most amusing travesty of a 'free constitution,' which England, as bound by treaty, bestowed upon the 'protected' Ionian Islands, the Lord High Commissioner selects from the 40 members of the House of Assembly, a senate, or council, or rather Ministry of six. The House of Assembly, (which sits nominally for three months every second year, but has of late been in a state of chronic prorogation), is elected by the people, with the trifling restriction that the members must be chosen from a list sent to each Island previously to election—the list containing the names of those whom the Lord High Commissioner deems eligible as representatives. The reason naïvely given for this modification of popular election is, that if the Islands were left to themselves they would return none but deputies of the anti-English party, which would be troublesome to Government! But, as we know, even this ingenious device has failed to secure an 'English' House of Assembly.

Our waning space compels us to hurry over the remaining chapters of the work. We can only mention a few salient points and these chiefly with reference to India. It is impossible to read Mr. Mill's suggestions for Councils, to assist with their advice and special knowledge, 'the military and naval ministers, 'and probably several others,' without having the unfortunate Indian Council and the self-complacent sciolist who snubs it, brought forcibly to our minds. We commend the following passage to the attention of Sir C. Wood.*

* It is eminently characteristic of this gentleman with whom we are at present afflicted, that while other Ex-First Lords of the Admiralty, examined by a parliamentary committee, spoke with more or less caution about the power which they were entitled to exercise in all Admiralty matters, he boldly declared that he, when First Lord, did just what he pleased! We can readily believe it.

‘The Councils should be consultative merely, in this sense, that the ultimate decision should rest undividedly with the minister himself; but neither ought they to be looked upon or to look upon themselves as cyphers, or as capable of being reduced to such at his pleasure. The advisers attached to a powerful and perhaps self-willed man ought to be placed under conditions which make it impossible for them, without discredit, not to express an opinion, and impossible for him not to listen and consider their recommendations, whether he adopts them or not. The relation which ought to exist between a chief and this description of advisers is very accurately hit by the constitution of the Council of the Governor General and those of the different Presidencies in India’ (pp. 246-7).

We cannot forbear quoting Mr. Mill’s opinion upon the value of these Indian Councils. Some of our readers may think our author’s praise excessive, and his view of the value of the ‘traditions of Indian Government,’ altogether unsound. The question can be decided by experience alone. We *may* be about to enter on a course of unbounded prosperity, with an absolutely perfect Army, Civil Service, and Judiciary under that panacea for all Indian ills—the ‘direct government of the English Crown.’ We *may* live to regard the destruction of the old Company, in spite of all its faults, (and they were many) as a measure hastily and inconsiderately suggested, accomplished by misrepresentation and fraught with jobbery, mismanagement and disaster. Time will tell. Meantime hear Mr. Mill.

‘This mode of conducting the highest class of administrative business is one of the most successful instances of the adaptation of means to ends, which political history, not hitherto very prolific in works of skill and contrivance, has yet to show. It is one of the acquisitions with which the art of politics has been enriched by the East India Company’s rule; and like most of the other wise contrivances by which India has been preserved to this country, and an amount of good government produced which is truly wonderful considering the circumstances and materials, it is probably destined to perish in the general holocaust which the traditions of Indian government seem fated to undergo, since they have been placed at the mercy of public ignorance, and the presumptuous vanity of political men. Already an outcry is raised for abolishing the Councils, as a superfluous and expensive clog on the wheels of government; while the clamour has long been urgent, and is daily obtaining more countenance in the highest quarters, for the abrogation of the professional Civil Service, which breeds the men that compose the Council, and the

'existence of which is the sole guarantee for their being of any value.' (p. 248.)

In this chapter, which is devoted to the consideration of the Executive in a Representative Government, the question of competitive examination for admission into the public service is discussed, or, perhaps, we should rather say, the popular objections to the system are answered, as it appears to us, conclusively. We regret that we cannot extract the whole argument, but must confine ourselves to one passage, referring to a matter which made some noise not long since in this country.

'We are next informed that book-worms, a term which seems to be held applicable to whoever has the smallest tincture of book-knowledge, may not be good at bodily exercises, or have the habits of gentlemen. This is a very common line of remark with dunces of condition; but whatever the dunces may think, they have no monopoly of either gentlemanly habits or bodily activity. Wherever these are needed, let them be inquired into, and separately provided for, not to the exclusion of mental qualifications, but in addition. Meanwhile, I am credibly informed, that in the Military Academy at Woolwich, the competitive cadets are as superior to those admitted on the old system of nomination in these respects as in all others; that they learn even their drill more quickly; as indeed might be expected, for an intelligent person learns all things sooner than a stupid one: and that in general demeanour they contrast so favourably with their predecessors, that the authorities of the institution are impatient for the day to arrive when the last remains of the old leaven shall have disappeared from the place.' (p. 263.)

We can ourselves state, from the experience of eight years' residence in a university, that the most successful and distinguished candidates for honors were, as a rule, fully equal, and frequently superior, to the 'dunces' in *physique*, and excellence in athletic sports.

The question of Nationality (Chap. XVI.) has little interest for us Anglo-Indians. It is very doubtful whether such a feeling exists among our native fellow-subjects. Attachment to creed or caste would seem to have taken its place. It is quite clear that the prevalence of a feeling of nationality coextensive with the Indian Peninsula, or even with one of our Presidencies would render the English tenure of India insecure, if not impossible. But all the generating causes of national feeling, enumerated by Mr. Mill, are, fortunately for the ruling power, absent in India. Identity of race and descent, community of language or religion,

well-marked geographical limits, the possession of a common national history, are in this case, wanting. It is true, as Mr. Mill remarks, that none of these is indispensable, or in itself sufficient, to create a feeling of nationality; but when all are absent national feeling can scarcely exist. Differences of race, creed and language have split up the people of India into sections, which may, at some future time, combine to form a Federation, but can never constitute a nationality. The attachment of the native to the village where he was born and bred is the undeveloped germ of patriotic feeling, which may hereafter make him a zealous Bengalee, Hindustanee, or Mahratta, but which will never expand so as to embrace the entire Peninsula.

When we speak of an Indian Federation as a possibility in the distant future, we mean a Federal Union of Native States, conferring upon all its members a common currency, a common official language, a common tariff for external commerce, and absolute freedom of internal trade. Of course it is necessary to suppose that the present paramount power had 'generously' withdrawn; having fitted the Indian peoples for self-government, or been driven out. This little condition fulfilled, we believe that a rude federation would be possible and beneficial in this country, between mutually independent native states, long before the people would be fitted for representative government. The German Bund is such a Federation of Sovereigns, meeting by representatives at Frankfort; but it has not conferred upon the German peoples the advantages which we have enumerated as the most obvious results of a federation.

While the English power governs India, another imperfect kind of federalism is possible, and would seem to be near at hand. Recent changes propose to give increased powers of self-government to the separate Presidencies and Lieutenant-Governorships. That this will be eminently beneficial we cannot for a moment doubt. It is the substitution of local government by those who necessarily know their own business best, for despotism, narrow-minded, centralised and over-worked, and just as little distinguished for those 'broad imperial views' of which we sometimes hear, as the minor Governments have ever been, or are ever likely to be.

Neither of these species of Federations can be considered as belonging to the class of genuine Federal Representative Governments, to which the XVIIth Chapter is devoted. Of such we know but two—the American and the Swiss—unless we add the new Confederate States to the number. And, indeed, a brief glance at the Federal constitution of the last may be neither

uninteresting nor uninstrucive ; for it is, we believe, undeniable that the Southern states of the American Union have, since the establishment of the Federation, produced more and sounder statesmen than the North.

The authors of the Confederate States Constitution have taken as their model the old Constitution of the United states ; but have introduced some important modifications. A comparison of the two documents will show what provisions of the elder Constitution have proved—at least in the opinion of Southern statesmen—unsatisfactory in practice.

The more express recognition of slavery in the new constitution was of course to be expected. The authors of the latter had neither expectation of, nor wish for the extinction of their ‘peculiar institution,’ as the founders of the Federal Republic had.

The perpetual electioneering ferment, which the election of a President every four years produces in the United States, is avoided by extending the term of office to six years. The President, moreover, is not re-eligible. This may be termed a compromise between the practice in the United States and the intention of the framers of the elder constitution. It is well known that the latter expected that the President would be as a general rule, re-elected once, and the term of tenure of the chair thus practically become eight years. Accordingly we find that the first President—Washington—the third, fourth, fifth, and seventh, that is five Presidents out of seven who governed the Republic between 1789 and 1837, enjoyed each eight years of office. Since 1837, however, there has been no instance of re-election. We may add that the old system of choosing the President indirectly, by means of Electors, is retained in the new Constitution.

The Executive Ministers are admitted to Congress for the purpose of debate. The inconvenience arising from the absence of the person most capable of giving authentic information on the subjects detailed has long been felt in the elder Congress. The innovation is an immense improvement.

Finally the wholesale dismissal of all Federal office-holders by an in-coming President in order to provide places for his own supporters without any regard to the qualifications of the latter for the posts to which they are appointed as compared with the efficiency of the actual incumbents—is forbidden by the new Constitution. Removal now can only be for actual misconduct and ‘for cause ‘stated.’ This most pernicious custom, which deprived Government of the services of experienced officials, to be replaced by men for the most part utterly ignorant of the business of their several offices, and which has moreover been attended

by boundless corruption and peculation, was introduced by President Jackson, who held office from 1829 to 1837. His vigorous and successful opposition to the former Secession movement of South Carolina in 1832 was not likely to recommend a system of which he was the author to the Southern statesmen, who are now endeavouring to found a new republic on the basis of human slavery. But the obvious disadvantages of the practice were enough to ensure its authoritative prohibition whenever an opportunity of amending the constitution should arise. *Fas est et ab hoste doceri*. We trust that the Northern Union will imitate their Southern enemies in the adoption of these undoubted reforms.

The last chapter is devoted to the subject of the government of dependencies by a free state. We shall pass over two of the three classes into which these are divided—military posts like Aden or Gibraltar, and colonies, like Canada and Australia—and conclude our notice of Mr. Mill's work by stating as briefly as possible his views upon the best way of ruling dependencies whose inhabitants are not yet fitted for representative government in other words his opinions upon the Government of India, past and present. We believe that the number of those who, in common with Mr. Mill, regret the extinction of the old Company, is large and increasing; who would prefer for their own sakes and in the interest of their native fellow subjects the rule of the Court of Directors, with all its short-comings, to the 'direct Government of India, by the' *inutile Lignum*, who like his Horatian prototype may have caused the man who 'made' him, some uncertainty whether the material were only fit to be 'sat upon' or might be moulded into a 'god,' i. e. a Secretary of State.

The 'ideal rule of a free people over a barbarous or semi-barbarous one' should be equivalent to a succession of despots of irresistible power, and qualified by their talents to bestow judiciously upon the subject nation the results of the experience of the ruling race. The rule should be so organized as to be a good instead of an evil to the subject people, 'providing them 'with the best attainable present government, and with the 'conditions most favourable to future permanent improvement.' The end being thus stated, 'about the worst' means of attaining it is, according to Mr. Mill, that which was demanded in 1857 with such eager clamour, and which we now enjoy—government by a British Minister responsible to the British Parliament. Even if the responsibility were not what we know it to be—altogether illusory—to 'govern a country under responsibility to the people of that country, (as is the case with the other

‘Ministers), and to govern one country under responsibility to ‘the people of another country, are two very different things.’ One is freedom; the other is despotism. The analogy, on which the inference is founded, that responsibility to parliament ensures good government at home, and therefore must be fitted for India, does not exist. This responsibility to the British Parliament of the Indian Minister is equivalent to the ‘government of one people by another,’ ‘which does not and cannot exist.’ It is a theoretical ‘despotism of twenty millions,’ assuredly not likely to be more beneficial to its subject than a despotism of a few, or of one. It is, moreover, a despotism of ‘those who ‘neither hear, nor see, nor know anything about their subjects.’

Not only are the English people unfitted, through ignorance and apathy, for the government of this country, but their interference, when exerted, is, however well intended, more likely to be injurious than beneficial. We offer no opinion of our own upon the following passage, which will appear to some exaggerated and harsh in language. It contains Mr. Mill’s view of the drawbacks which attend the presence of English Settlers, with their capital and intelligence, in India. The interference of English opinion, he says, ‘is likely to be oftenest exercised ‘where it will be most pertinaciously demanded, and that is, ‘on behalf of some interest of the English settlers. English ‘settlers have friends at home, have organs, have access to the ‘public; they have a common language, and common ideas ‘with their countrymen; any complaint by an Englishman ‘is more sympathetically heard, even if no unjust preference ‘is intentionally accorded to it. Now, if there be a fact to ‘which all experience testifies, it is that when a country ‘holds another in subjection, the individuals of the ruling people ‘who resort to the foreign country to make their fortunes, are of all others those who most need to be held under powerful restraint. They are always one of the chief difficulties of the government. Armed with the *prestige* and filled with the scornful ‘overbearingness of the conquering nation, they have the feelings ‘inspired by absolute power, without its sense of responsibility. ‘Among a people like that of India, the utmost efforts of the ‘public authorities are not enough for the effectual protection of ‘the weak against the strong; and of all the strong, the European settlers are the strongest. Wherever the demoralizing effect of the situation is not in a most remarkable degree corrected by the personal character of the individual, they ‘think the people of the country mere dirt under their feet; it seems to them monstrous that any rights of the natives should

‘stand in the way of their smallest pretensions ; the simplest act of protection to the inhabitants against any act of power on their part which they may consider useful to their commercial objects, they denounce and sincerely regard as an injury. So natural is this state of feeling in a position like theirs, that even under the discouragement which it has hitherto met with from the ruling authorities, it is impossible that more or less of the spirit should not perpetually break out. The Government, itself free from this spirit, is never able sufficiently to keep it down in the young and raw even of its own civil and military officers, over whom it has so much more control than over the independent residents.’ (pp. 328-9.)

We feel as forcibly as any of our readers can that we have taken up more space in our notice of Mr. Mill’s work than our ability to treat it as it deserves, can justify. Our principal object has been to lay before those who were unlikely to read the volume itself, the most important opinions which it contains of a writer whose every word deserves respectful attention—whose views, however we may differ from them, we cannot despise. We shall conclude with one more extract accurately describing the present system of governing India, warning us of its inefficiency and inevitable failure, pointing out the right path to follow, and lamenting our deviation from its track.

‘It is not by attempting to rule directly a country like India, but by giving it good rulers, that the English people can do their duty to that country ; and they can scarcely give it a worse one than an English Cabinet Minister, who is thinking of English not Indian politics ; who does not remain long enough in office to acquire an intelligent interest in so complicated a subject ; upon whom the factitious public opinion got up in Parliament, consisting of two or three fluent speakers, acts with as much force as if it were genuine ; while he is under none of the influences of training and position which would lead or qualify him to form an honest opinion of his own. A free country which attempts to govern a distant dependency, inhabited by a dis-similar people, by means of a branch of its own executive, will almost inevitably fail. The only mode which has any chance of tolerable success, is to govern through a delegated body, of a comparatively permanent character ; allowing only a right of inspection, and a negative voice, to the changeable Administration of the State. Such a body did exist in the case of India ; and I fear that both India and England will pay a severe penalty for the short-sighted policy by which this intermediate instrument of Government was done away with.’ (p. 332).

- ART. II.—1 *A Review of Public Instruction in the Bengal Presidency, from 1835 to 1851.* By J. Kerr, M.A. Principal of Hooghly College. Calcutta: Baptist Mission Press, 1852.
2. *An Address to Parliament on the Duties of Great Britain to India in respect of the Education of the Natives, and their official employment.* By Charles Hay Cameron. London: Longman & Co. 1853.
3. *Selections from the Records of the Bengal Government. No. XIV. Papers relating to the Establishment of the Presidency College of Bengal.* Calcutta: Bengal Military Orphan Press, 1854.

IT is fashionable to recommend education as a sovereign panacea for the moral and social diseases with which India is afflicted. 'Had the Sepoys been educated, we should have had no mutiny,' say some. 'Educate the ryots,' wrote Dr. Duff to the Indigo Commission. And the belief is gaining ground that as we English must at some time retire from the country, the earlier our native subjects are fitted by education for the work of self-government, the better. That there is truth in these views cannot be denied. Had the Sepoys been educated, they would not have been deceived by the story of the greased cartridge. Had the ryots been enlightened, they would, in resisting the despotism of the Indigo-planter, have referred their grievances to the proper authorities in a manly, constitutional way, and not have had recourse to a series of jacqueries and to an armed resistance, whose issue, so distressful to themselves, could bring with it no commensurate good. And education is indispensable to the formation of that character, without which India must fall a prey to the lust of some other conqueror the moment British authority is withdrawn from her shores. But admitting all this, we yet maintain, that there are elements of character without which no people can rise in the scale of nations or attain true manhood, an end which cannot be reached by a mere secular education. Education would have allayed, perhaps extinguished, the fanaticism of the Sepoy hosts, but it would not of necessity have made those hosts unwaveringly loyal. Education would make the ryot a skilled

labourer and discover to him his rights as a man, but it would not necessarily make him honest, or faithful to his contracts, or scornful of the deceit and trickery that underlie the Bengali character. It would introduce the people to a knowledge of the arts and sciences, and of those principles of political economy by which alone a state can be securely governed, but it would not give that moral strength which alone can prevent knowledge becoming a weapon for self-destruction.

It may be urged that though education is not the all in all, it holds an undisputed precedence among the means by which a people are to be raised in the social scale; that social amelioration is inseparable from material prosperity; and material prosperity pre-supposes such an appreciation of mechanical and scientific appliances as education alone can produce. This is true, but the converse is also true; for it is by means of their appreciation of the practical advantages of these appliances that we may hope to awaken in the minds of the ignorant, a healthy longing for that education, that power, which can command such forces.

But we can imagine a state of things in which the commercial value of appliances, such as those we have referred to, may be fully acknowledged and yet no earnest effort be made to use them. Look at the agricultural population of this country. The resources of knowledge might be brought to bear on their labour, and an increased out-turn place an increased remuneration in the hands of the ryot; and the ryot may be well aware of this. But when he is liable at any moment, and without the hope of redress, to be fleeced by a rapacious Zemindar, or a more rapacious police; when, his rights being unprotected, he is not suffered to become rich, what encouragement has he to acquire useful knowledge? If he earns but little and loses all, he will also lose all when he earns much. The increased profits of skilled labour would leave him no gainer. Does it not look like mockery to educate the ryot, whilst, to all intents and purposes, he remains the serf of the native Zemindar and the prey of a ravenous police? Does it not seem clear, that until we have made proper provision for the administration of law and justice, and the security of the rights, property and persons of our subjects, all our efforts to awaken a healthy desire for education among the lower classes must be abortive?

If, again, leaving the question of material advancement, it be urged in favour of education, that without it the people will fail to discern or appreciate the thousand subtle moral influences that pervade our civilization, we reply that for this result we

must look, not to education simply, but to a Christian education. Christianity and morality can never be dissociated, and no true moral principle can be instilled or kept alive without the aid and influence of Christian Truth. A mere secular education may increase a man's power for good or evil, but it cannot make him either better or worse. But our government has a policy, and by that policy all Christian education is rigorously excluded.

This, then, is our position. We are told on the right hand and on the left, that we must educate the people. We reply, if by educating them, you desire to advance their material prosperity, you must first administer justice among them, give them a police worthy of the name, give them roads, give them good laws, and secure to them their rights in their own persons and property. We reply, if by educating them, you desire to bring them within reach of the moral and social influences that are in activity among ourselves, you must mingle with your secular teaching the holy principles and obligations of Christian Truth, and breathe into the education you give them the spirit of that higher Life which is 'the Light of men.' We propose in the present article to view the question in this latter aspect.

The empire of the East India Company had been established for more than half a century before the Government would consent to furnish their subjects with an education likely to be of any practical use to them in the business of life. Reluctantly did they recognize the principle that it was their duty as a great and powerful Government to provide for the enlightenment of the people; with difficulty were they brought to acknowledge any necessity beyond that of maintaining the existing institutions among the people. When the East India Company became the conquerors of the land, they found a few Sanscrit and Arabic schools, the only representatives of the literary habits of their subjects. These they deemed it wise to encourage, not from a conviction that they were necessary for the social progress of the people, but in the hope that such encouragement would help to reconcile them to a foreign yoke. The College of Benares, with its doting Pundits, was the leading institution for Sanskrit literature and philosophy; and to propitiate the Mahomedan population of Bengal, Warren Hastings in the year 1781, established the Madrassa of Calcutta. Arabic and Sanscrit, the Koran and Hindoo metaphysics, were to keep India happy and contented, whilst the East India Company shook the Pagoda tree.

By the way, can any body tell us what this Pagoda tree was? Have botanists described it? Did Dr. Leyden, who we suspect came in search of it, ever find it? Like the mastodon or the

dodo, it appears to be extinct. We have heard socialists allegorize the early chapters in Genesis, with a view to show that 'the tree of the knowledge of good and evil' was money, which an inspired apostle tells us is 'the root of all evil.' The existence of this Pagoda tree furnishes a singular corroboration of their views. As such we recommend the idea to their consideration!

But to return to our subject. We have said that the Government of India were instructed to give every encouragement to Arabic and Sanscrit Learning, in order that whilst the people amused themselves with the unspeakable inanities embodied in their favourite literature, the East India Company might pluck, undisturbed, the golden fruit of the Pagoda tree. Ten years after the establishment of the Calcutta Madrassa, Lord Cornwallis sanctioned an annual grant of Rs. 14,000 towards the support of a Sanscrit College at Benares. Thus it was hoped, both Hindoos and Mahomedans would be conciliated. 'These Oriental Colleges,' writes Mr. Kerr, 'were founded as a means of conciliating the people by showing respect for their ancient learning, more especially as a means of conciliating the Pundits and Moulvies.' That this was deemed 'politic in the early stages of our empire in India' will be clear from the following observations made by Mr. Jonathan Duncan, who got up the Sanscrit College in Benares:

'Two important advantages seem derivable from such an Establishment,' he writes; 'the first to the British name and nation, in its tendency towards endearing our Government to the native Hindoos, by our exceeding in our attention towards them and their systems the care even shown by their own native princes.'

As the establishment of a Sanscrit College promised to 'preserve and disseminate a knowledge of Hindoo Law,' so the Mahomedan College in Calcutta was made to provide 'for the instruction of students in the Mahomedan Law, and in such other sciences as are taught in the Mahomedan Schools.' Thus it was the policy of the Government to favour an educational system, if educational it could be called which had no advantage either intellectual or moral to recommend it, and which could only be turned to some little account by being associated with the administration of Hindoo and Mahomedan Law. But these institutions, towards which enormous sums of money were being paid out of the revenues of the country, failed to answer the expectations of the Government, moderate as those expectations were. To be sure the droning Pundits and lazy Moulvies had no reason to be dissatisfied, and the students, all of whom were liberally paid for

their attendance, were far from unhappy; but the trained lawyers were not forthcoming, and 'the precious libraries of most 'ancient and general learning and tradition' which the enthusiasts in the cause of Oriental learning had dreamed of, degenerated into lumber-rooms stocked from roof to ceiling with formidable piles of literary rubbish. We learn that about the year 1811, 'the subject of the decay of learning among the natives engaged the particular attention of the Government.' The cause of the decay was obvious. The conduct of the institutions had been left entirely in the hands of the Pundits and Moulvies, who, as long as their salaries came in with regularity, cared very little about the progress of their pupils. To revive the cause of Oriental literature, the Government arranged for the establishment of a Sanscrit College in Calcutta, to be conducted under European supervision. But the wisdom of this measure was more than doubtful. At this very time, the native mind in Bengal, tempted by the higher emoluments and other advantages it promised, began to awake to the desirableness of securing an English education. The Rajah of Burdwan, Baboo Chunder Coomar Tagore and other enlightened native gentlemen were, at this very time, meditating the establishment of a school or College which should offer facilities to the youth of Calcutta, and, indeed, of Bengal, for the study of that English literature which was fast becoming the highway to preferment and fortune. These gentlemen, we may be sure, but represented the idea that was growing and taking definite shape among the people generally, and speedily usurping the place hitherto held by a blind reverence for Oriental learning with its absurd philosophies and outrageous science. It will therefore strike every thoughtful observer that 'the decay of learning' so deplored by the Government, manifesting itself simultaneously with the newly awakened desire for an English education, was more than a simple coincidence, and that had the Government been wise, they would have at once directed their resources towards the gratification of this new-born desire for European knowledge, rather than have squandered Rupees 25,000 a year on an institution doomed, by reason of the increasingly practical tendencies of the Hindoo mind, soon to lose its hold on the popular imagination.

The Hindoo College was opened in the Chitpore Road on the 20th of January 1817, with the Governor General and Honorable Members of the Supreme Council as patrons, His Majesty's Chief Justice as President, the Chief Judge of the Sudder Court as Vice-President, a goodly array of names, European as well as native on the Committee list, and, what was most to the point,

a sum of Rs. 48,760 at the banker's. After a growing success of eight years, however, the funds of the Institution began to decline and the managers applied to the Government for aid. The Committee of Public Instruction, through whom the application had been made, was desired to observe in reply, that 'a certain degree of authoritative control in the concerns of the 'Institution' would be expected 'in return for the pecuniary aid 'proposed to be afforded.' This was conceded; but Government support being henceforward secured, the interest which the native gentlemen had taken in the success of the College began to flag, the management passed into the hands of a sub-committee of the Committee of Public Instruction, and the Hindoo College became, to all intents and purposes, a Government Institution.

The demand for English was not confined to the natives of Calcutta. A College for Persian and Hindi had been established in Agra in 1824, and had continued to be conducted on pretty much the same principles as the Colleges of Calcutta and Benares, till about the year 1833, or 1834, when the pupils expressed a desire to be taught English. 'The first step taken,' says Mr. Kerr, 'was to open an English class, to be attended for a short 'period of each day by recruits drawn from the Persian and Hindi 'departments. This did not fully meet the exigency of the case. 'The local committee repeatedly represented the growing demand 'for English instruction, and recommended the entire remodelling 'of the College establishment.' A similar desire showed itself in the Delhi College, in which had been taught Persian and Arabic with a little Sanscrit, since the year 1825. An English class was opened in 1828, and immediately half the pupils of the Institution requested that their names should be transferred from the Oriental to the English Department. Reported as these things were to the Supreme Government, it was not long before the authorities saw the necessity for more complete and general measures for the encouragement and support of English learning. It is probable they were also actuated in this matter by a growing conviction that it would be more economical to employ educated natives in the subordinate departments of the government than Englishmen, who needed to be sent for from home. At all events the following Resolution by Lord W. C. Bentinck, dated the 7th March 1835, will show how complete was the change which the educational policy of the state underwent:—

'His Lordship in Council is of opinion that the great object 'of the British government ought to be the promotion of Euro-
'pean literature and science amongst the natives of India, and

‘that all the funds appropriated for the purposes of education would be best employed on English education alone.

‘It is not the intention of His Lordship to abolish any College or school of native learning, while the native population shall appear to be inclined to avail themselves of the advantages it affords.

‘His Lordship in Council decidedly objects to the practice which has hitherto prevailed of supporting the students during the period of their education. He conceives that the only effect of such a system can be, to give artificial encouragement to branches of learning which in the natural course of things, would be superseded by more useful studies, and he directs that no stipend shall be given to any student who may hereafter enter at any of these Institutions, and that when any Professor of oriental learning shall vacate his situation, the Committee shall report to the Government the number and state of the class, in order that the Government may be able to decide upon the expedience of appointing a successor.

‘It has come to the knowledge of his Lordship in Council that a large sum has been expended by the Committee in the printing of Oriental works. His Lordship in Council directs that no portion of the funds shall hereafter be so employed.

‘His Lordship in Council directs that all the funds, which these reforms will leave at the disposal of the Committee, be henceforth employed in imparting to the native population a knowledge of English literature and science, through the medium of the English language.’

This change of policy was not decided on without considerable opposition on the part of the Orientalists in the Committee of Public Instruction; but common sense, economy, and the generally expressed desire of the people themselves, triumphed. The case as put by Mr. Macaulay in his well known minute on the subject, the minute which elicited the Resolution just quoted, was clear and irresistible.

‘The question now before us,’ he observes, ‘is simply whether, when it is in our power to teach this language (English), we shall teach languages in which, by universal confession, there are no books on any subject which deserve to be compared to our own; whether, when we can teach European science, we shall teach systems which, by universal confession, whenever they differ from those of Europe, differ for the worse; and whether, when we can patronize sound philosophy and true history, we shall countenance at the public expense medical doctrines, which would disgrace an English farrier,—astronomy, which would

‘move laughter in girls at an English boarding-school,—history, ‘abounding with kings thirty feet high, reigns thirty thousand ‘years long,—and geography, made up of seas of treacle and ‘seas of butter.’

Much more to the same effect, and written with the same pungency and point, might be quoted; but we forbear. Lord W. Bentinck’s Resolution, placing the education of the people on a new and healthy basis, was hailed with satisfaction by all who were not wedded to old prejudices, and who had sufficient foresight to discern the social revolution it would inaugurate. The Agra and Delhi Colleges received an impetus in the direction of European literature and science, which had not only tended to preserve their vitality which under the old system was fast decaying, but has made them the leading Colleges in the North-West Provinces. The Benares College, hopelessly wedded, as one might at first have thought, to the cause of Sanscrit lore and exploded systems of philosophy, was not a whit behind her sisters in the demand for English. Every Institution, existing at the time when the Resolution of 1835 was passed, seized the opportunity of acquiring a knowledge of Western literature; whilst the colleges and schools, that have sprung up since that time, owe all their popularity and success to the English department. The English School at Dacca, which has now blossomed into a College, was opened in the year 1835, and was the first Government Institution that at once created and supplied the demand for English instruction in Eastern Bengal. This part of the country has sometimes as we learn from Mr. Kerr, been styled the Bœotia of Bengal, but never was epithet more misapplied. The fertility of its soil and the security afforded by the Perpetual Settlement have had a favourable influence on the intellectual character of its people who, equally with their brethren on the Western side of Bengal, are more acute and intelligent than the population of the North-West Provinces.

It had been originally proposed that the Hooghly College, for the endowment of which certain ample funds left by Mahomed Mohsin were available, should be exclusively devoted to Mahomedan learning; but by the time the controversy between the Government and the original trustees of these funds had ended in the Government assuming the trusteeship, the movement in favour of European literature had become general, and the worthless scheme of a Madrissa was wisely made to yield to a plan for an English college. Three days after the College was opened, 1200 pupils were enrolled in the English Department,

and only 300 in the Oriental ! As the success of these English Colleges became more and more conspicuous, the Government were induced to found schools in various parts of the country ; and to these schools hundreds of pupils resort year by year, stimulated by a desire for the position and emoluments offered by an English education.

It will be clear from what we have written, that the substitution of European literature and science for Oriental learning, was a measure that originated, not with the Government, but with the people. What inference may we draw from this ? Had the Government been remiss in their support of Oriental learning ? So far was this from being the case, that the sums of money squandered on these Oriental Colleges, these haunts of vicious idleness, were not only liberal but absurd. Pupils as well as teachers were paid for their attendance. Men engaged to translate works from the learned languages, and translating them unintelligibly, were dismissed ?—No—retained ‘on a liberal salary,’ to explain their translation ! None of the countless books, for the preparation and printing of which thousands and tens of thousands of rupees were expended, ever found purchasers ; and yet more and more money was being continually voted towards the accumulation of a literature in which white ants were the only living creatures that cared to revel. Money was poured out like water upon a language whose grammar alone it took a man till he was sixty years old to learn, in whose philosophy he floundered to deeper depths each time he struggled to get back to the regions of common sense, whose historical or rather legendary lore, would be too much for the credulity of a nursery audience, whose morality was the vilest immorality, and whose religion was vice. Money was poured out like water on an Arabic and Persian literature, whose poetry was of the most effeminate and voluptuous kind, whose science could bear no comparison with that of Europe, and the essence of whose religion was political disaffection and fanaticism. In a word, every conceivable means was used to encourage Oriental learning, and conciliate the people by making them believe that it was highly esteemed by the Government.

When the demand for an English education arose, it was attributed in some quarters to ‘a strong though vague idea of ‘the treasures of knowledge which the English language contains.’ But the truth need not have been concealed. As long as the British possession of the country was but of recent date, and the people, accustomed to being transferred from one power to another, were doubtful of the duration of our rule, they felt

but little desire to become acquainted with our literature, or multiply the relations which, in process of time, usually serve to indentify the interests of the governed with those of the governors. But when our hold was found to be firm, and our rule promised to last indefinitely, they opened their eyes to the advantages that might be reaped by making their knowledge of the language of the conquerors a marketable commodity. A report had at the same time gone abroad that the Government, which had hitherto suffered Persian to remain the language of the courts, were now about to substitute the Vernaculars in its place. The desire for Oriental learning began, as a consequence, to abate, and, obedient to the dictates of a wise self-interest, the natives, especially the shrewder and more enterprising Hindoos, left their Sanscrit *Byakurans* with the Pundits, and took to the English Primer. Nor will any one venture to say that the motive by which they were actuated was a reprehensible one. It only represented the universal law of self-interest, the law that keeps society together, and gives life and healthiness to the countless relations that subsist between man and man. No undefined longing for the treasures of knowledge as such, ever yet stirred up an ignorant and demoralized race to undertake the labour of learning; and the case of the Hindoo was no exception. It was not 'a strong though vague idea of the 'treasures of knowledge,' but a strong and pretty clear idea of the treasures of material wealth that roused him from his indolence and apathy.

There were not wanting in those times men who, like Lord Ellenborough, could associate nothing but political disaster with the spread of secular enlightenment. So long as the people were restricted to their own learned languages, and their own science and philosophy, and were suffered to hear no doubts expressed regarding their religious belief, India, it was thought, would remain in our hands, a secure possession; but we might expect her to be wrested from us and lost for ever, the moment we introduced the suicidal policy of educating her sons and so necessarily, of uprooting their ancient religious prejudices and superstitions. No doubt such prognostications had the effect of deterring the government from abolishing the Oriental system earlier than they did; but it soon became apparent that they were the offspring of a narrow and short-sighted policy. Giving our subjects an English education promised great advantages not only to themselves, but to the State. In an economical point of view it would surely be a gain to employ educated natives as ministerial officers and in the subordinate branches of the

administration, in the place of Europeans, who for doing the same work would require a more liberal rate of payment. And in a political point of view, men who had acquired a knowledge of Western literature and science would be more likely to be loyal to the state, as well from an enlightened conviction that their welfare depended on a continuance of existing relations, as from a knowledge of those powerful resources at the command of the British Government which must make successful rebellion an impossibility. This appreciation of their own interests and of our power would be an inestimable safe-guard to our rule, and we should owe it to the influence of an English education. Surely such a safe-guard were preferable to the ignorance in which we found the people, an ignorance more likely to urge them headlong into revolt, than to restrain them from it. Considerations such as these adding weight to the conviction that it was the duty of a great and enlightened Government to educate their subjects, and backed by the generally expressed desire of the people themselves, resulted, and rightly, in that entire change of educational policy of which Mr. Macaulay's Minute and Lord W. Bentinck's Resolution were the public exposition.

But refreshing as was the change from the ponderous absurdities of Oriental lore to the healthy and vigorous life of European literature, lurking places were provided for those absurdities in the 'Oriental Departments' of Colleges, and in the Sanscrit and Mahomedan Colleges of Calcutta. One of the arguments against the abolition of the Sanscrit and Arabic Schools was, that without them our courts could not be furnished with men qualified to expound Hindoo and Mahomedan Law; and on this ground chiefly, have the two Oriental Colleges of Calcutta been maintained in all their expensive inutility. Mr. Macaulay met the argument with the following reply :—'The fact that the Hindoo Law is to be learned chiefly from Sanscrit books, and the Mahomedan Law from Arabic books, has been much insisted on, but seems not to bear at all on the question. We are commanded by Parliament to ascertain and digest the laws of India. The assistance of a Law Commission has been given to us for that purpose. As soon as the code is promulgated, the Shasters and the Hedaya will be useless to a Moonsiff or Sudder Ameen. I hope and trust that before the boys who are now entering at the Madrissa and the Sanscrit College have completed their studies, this great work will be finished. It would be manifestly absurd to educate the rising generation with a view to a state of things which we mean to alter before they reach manhood.'

The fact that the Sanscrit College is, according to the confession of the late Director of Public Instruction, held in high repute by *orthodox* Hindoos, is, we fear, the most satisfactory proof we could have, of its supreme uselessness. In the educational Report for 1858-59, Mr. Young informs us that the Supreme Government have sanctioned the introduction of a larger English element into the course of instruction followed here, and so far, no doubt, some good has been done. Still, what is called the College Department of this Institution, retains its purely Oriental character, with the exception of the permission granted to its students to attend English lectures in the Presidency College. In the Madrissa too, a little English is taught, but its resources are mainly devoted to the cultivation of Arabic and Persian literature. If at the time when Macaulay wrote his Minute, the expenditure on Oriental learning was condemned as unwise, owing to the expected early completion of a code—the work of a commission expressly provided to make a digest of the laws of India, which would supersede the necessity of having Hindoo and Mahomedan law-officers,—what shall we say of the wisdom that insists on maintaining this expenditure even after the work of the Law-Commission is ended, and this code, now ready, is about to supersede all the old, tangled forms of law that have flourished luxuriantly for the last hundred years? To the Madrissa we object more strongly than to the Sanscrit College. The latter simply dwarfs the intellect, and unfits Hindoo youth for the earnest, practical realities of life; but the policy that upholds the Madrissa endangers our rule. Arabic science and logic have, we believe, been given up; but Mahomedan literature and law are still taught, and that, to use the language of the present Lieutenant Governor of Bengal, ‘to the very highest attainable standard.’ We object to the Madrissa on the ground of its exclusive character; for it appears to us that a College for Mahomedans is as great a violation of that neutral policy, that affects to favour no particular creed or religion more than another, as would be a Government College for native Christians. We object to a vast expenditure for the teaching of a Law that will now no longer be administered, and which will require no further exposition. And we object to the encouragement given by the state to the cultivation of a literature which, owing to its essentially religious character, can only tend to foster fanaticism and promote political disaffection. We are actually spending a large sum of money from year to year out of our exhausted exchequer, in the support of Moulvies engaged to teach and students paid to be indoctrinated in a creed, which

lays it down as a fundamental obligation that no faith should be kept with infidels, and therefore, with ourselves, the rulers of the land. Mahomedanism is 'the fanaticism of the banner,' and has the effect of making its adherents, when under a foreign yoke, religiously disloyal. What is the reason that our Mahomedan subjects, as a rule, despise an English education? How is it that whilst Hindoos flock in hundreds and thousands to our English classes, Mahomedans are reckoned by units. It may be replied that the Mahomedans are a more indolent race and do not like the trouble of learning a foreign tongue. This is not true. They are not at all more indolent than Hindoos in pursuits that interest them, and they will take an infinity of pains to learn Arabic or Persian. It may be said that it is the possession of 'a polished language and literature of their own' of which they are proud, which makes them indifferent to English. But the possession of 'a polished language and literature' does not prevent the Hindoo from acquiring a knowledge of English! The fact is that, except when deterred by imperious religious considerations, all pride, prejudice and indolence must give way before an adequate necessity. When the Hindoos felt it was necessary to learn English if they would enjoy the superior material advantages that such a knowledge alone could bring, they laid aside their prejudices and indolent habits and set to work. Why have not the Mahomedans done the same? Their necessity was quite as great, if not greater; for our rule occasioned the poverty of numerous Mahomedan families that had grown fat on the spoils of a subject country. Nevertheless they keep aloof from us, and, as a consequence, are sinking lower and lower in the social scale, and being farther and farther distanced in the march of civilization. On every hand, we meet with Hindoos rising to rank and wealth; but we look in vain for rising Mahomedans. We say not that there are no men of wealth and influence among them; still, those who are such, are, as a rule, people that have received their wealth and position from their forefathers who lived during the period of the Mahomedan possession of the country. How do we account for this state of things? The conclusion we think is obvious, that the Mahomedans do not care to learn our language, because they do not care to be reconciled to our rule. They have not forgiven us for dispossessing them of Bengal; they hate us as much to-day as they did on the 21st of June 1757, when we made Suraj-u-Dowlah fly from the plains of Plassey. Their comfort in their present reverse of fortune is in the belief that the dominion will yet again become theirs. Cheap books are industriously circulated among

the poorer classes with a view to keep alive the expectation of deliverance from our yoke. Like all fanatics, they regard themselves as special favorites of Heaven, and look forward with confidence to the day when they will recover their independence and once more be the rulers of India. And the mistaken policy of the Government has but encouraged and nurtured the disaffection. In our extreme anxiety to conciliate them, we have dandled and petted them, and coaxed them to be good, until they now believe that we fear them. We feel it our duty to protest most earnestly against the policy that encourages the Moslem in his arrogant exclusiveness, by giving him a College to himself, and instructing him in a law and a literature which can only confirm his enmity to the state. Mahomedan Law and the Mahomedan faith cannot be dissociated, and to teach the one is to teach the other; Mahomedan literature is essentially religious; and as long as we continue to teach these things, we continue to cherish the viper that will sting us the moment it is warmed into life. The Madrassa in Calcutta, as long as it stands, will be a monument of our folly and an unanswerable satire on our so-called neutral policy.

The question then arises, what ought we to do in the matter of Oriental learning? No true science, philosophy or history are to be derived from Sanscrit and Arabic. The only claim these languages can have to recognition in an educational scheme, is on the ground of their intrinsic value as languages, and this claim we apprehend would be amply met by the establishment of a University chair for each. A professor or professors of Sanscrit and the same for Arabic, is all the homage we need pay, in a Government scheme, to languages for the study of which greater facilities exist in Europe, and especially in Germany, than in this country. Let all who have the means and the leisure for Oriental studies attend the lectures of these professors; and let the money now wasted on Oriental Colleges and Departments of Colleges, be devoted to the support of Zillah Schools. We hold that the Government are not bound, either in the reason of things, or by any pledge given to their native subjects, to uphold the present scheme.

We come now to a most important inquiry. We have seen how the demand for an English education arose among the pupils of the Government Colleges and Schools, and how it was met by the Government. From that time to this, through a period of about thirty years, we have been teaching European science and literature. What result has this change in our educational policy produced? Has it been a success, or is it a failure? In some respects it has wrought undoubted good; but in others it

has disappointed us. Viewed in comparison with Oriental learning, as that learning used to be prosecuted, and in connection with the material advantages it has brought in its train, this change has been a success; viewed in respect of the moral improvement and social revolution it was expected to accomplish, it has been a failure. Let us look first at what it has done, and then at what it has failed to do.

To those who have come within the range of its influence, a knowledge of English has brought inestimable intellectual benefits. Enslaved as they had been for ages, our literature and science and history knocked off their fetters and drew them from the darkness of their intellectual prison-house into the cheerful light and free air of true knowledge. One look through our telescopes was enough to shatter for ever their belief in the cosmogony of their shastras; one draught of the pure and majestic streams of thought, that flow through our literature, was enough to entice them away from the turbid and unwholesome waters of their own legendary lore; one glance at the map of the world and at the authentic history of its nations, was enough to scatter for ever the outrageous traditions of fabulous lands and heroes. A knowledge of English has taught them great truths respecting themselves—respecting men, their histories and national characteristics, their politics, and their inventions and discoveries in the arts and sciences—respecting nature, its subtle agencies and secret forces—respecting the world of mind and its laws of action—and respecting the far off worlds, with their laws and revolutions. None of these things would have been known—nothing of that expansion of mind and thought, which is now going on around us, would have been realized, with centuries of Sanscrit and Arabic study.

Then there is the accumulation, of material wealth. In the race of life, the enlightened must outstrip the ignorant. There are offices in the State, places of trust both within and without the sphere of Governmental service, pursuits requiring a knowledge of mercantile economy, and professions such as those of engineering and medicine, which are within the reach of those only who have made themselves conversant with European science and literature. In all these paths there is wealth to be had, but wealth which will surrender only at the challenge of knowledge.

But, so far, the advantage is with the learner, not with the State that supplies the instruction. What benefit do we as rulers derive from the education we are giving the people? Among the lesser benefits, may be mentioned the preparation of a class

of men to fill the subordinate posts in the various departments of the State; an arrangement by which not only is economy supposed to be secured, but the good will and sympathies of the people themselves are believed to be gained. The great benefit undoubtedly is, that as education helps to enlist men on the side of order and good Government, so all who are educated by us, being on that account fitted to advise and influence the untaught people of our province, will use their influence in support of the State. Not that the loyalty inspired by education is of the heroic and generous type; but their acquaintance with our national resources and the springs of our strength will deter them from awakening or stimulating a hostility which would be inevitably disastrous to themselves. Education will convince them of the folly of attempting to throw off the British yoke; and the fear and respect thus engendered may be looked upon as our greatest safeguards against rebellion. Of course the loyalty of fear is not to be mistaken for the loyalty of love. It by no means follows that men, who are enamoured of our literature, entertain a devoted attachment to our Queen; or that moved by any very high sense of their obligations to her, they would always be prepared, at whatever risk, to check the tide of disaffection among their ignorant countrymen. No education will give the Bengali the true, disinterested loyalty, which, in times of peril such as 1857, stirs the breast and nerves the arm of the Englishman, and urges him, regardless of all personal hazard, to uphold the honour of his Queen and country. There is sympathy subtler than any a mere community of knowledge can awaken, whose chords must be touched before the loyalty of the educated natives, can be any thing more than a prudent calculation of consequences. Their loyalty, in the existing state of things, can only be the offspring of a wholesome fear resulting from a shrewd appreciation of our national resources, and of a conviction that under no other Government, not even under a republic or monarchy such as they might be suffered to establish for themselves, would they enjoy the political freedom, or meet with the enlightened liberality of sentiment that are identified with British rule. It will be vain for us to expect any thing more than the loyalty of fear, until a community of religious belief and feeling has added its influence to that of secular instruction. The religious instinct in man, and the sympathies awakened by it, are among the most powerful of the influences that sway human conduct. Religion may be a practical power, permeating like leaven, all a man's thoughts, and giving colour to all the purposes of life, or it may be a mere form whose ceremonials are viewed by him

as both its symbol and substance; nevertheless the bare fact that the religion he professes is also the religion of certain others, is enough to establish a sympathy between them, and cement a union, which in seasons of political revolution, will over-ride all social and race distinctions. Every appeal to the religious sentiment for aid in times of danger or distress, especially when that danger or distress is expected to come from a people of a different faith, is based on the idea that the eternal interests of those whose help is asked will be at stake if that help is not given. This is universally felt to be the highest and most pressing ground of appeal, and as such may stimulate or restrain the war passion, when other considerations prove of no avail. The principle of self-interest underlies all the political relations which men form with one another, and advantage is taken of this principle in its highest form in every appeal based on a community of religious sentiment. The old Romans, who suffered the nations they conquered, to retain their own gods and religious formulæ, were in reality far from neglectful of the political advantages to be derived from religious sympathy. It is said that they refused to interfere with the religion of a subject nation, in order that they might thus conciliate their prejudices. This is true, but it is not the whole truth. 'Among the Romans,' observes Neander in his 'General Church History,' 'religion was more closely interwoven, than in the other ancient states, with politics. One gave light to the other. Here more than elsewhere, the whole civil and domestic life was based on religious customs, which, by their connection with modesty of manners, presented a striking contrast with the more æsthetic than moral element of the Grecian mythology.' The Romans early learnt that the religious element which was so mixed up with the principles of their own individual polity, could not be excluded from the political relations they established with the people of conquered lands. Professing to leave such subjugated nations free to retain their own gods and forms of worship, they nevertheless sought by degrees to introduce among them Roman gods, and a Roman ritual which was to be practised in conjunction with the national religious observances. So far then from being indifferent, the Romans were keenly alive to the influence of the religious element in directing the political sympathies of a people.

It may be asked, to what do these remarks tend? Do we propose, as a guarantee against all future rebellion, that our Indian subjects should, *per fas aut nefas*, be induced to embrace

Christianity ? By no means : such a measure would be not only at variance with the first principles of the Gospel, but productive of more harm than good. We desire to advocate no means for the conversion of the people but those indicated in Holy Writ ; we are only stating our conviction that if the people were Christians, we should in that fact have a surer and more abiding safe-guard against disaffection and revolt, than in any loyalty traceable to the influences of an English education alone. The undeviating loyalty shown during the mutinies by the native Christian community of the North-West Provinces will serve as an illustration of what might be expected were the whole nation christianized. The fact then cannot be doubted that there exists a higher guarantee for loyalty than the instruction of our heathen subjects in our own language and literature. A knowledge of European literature and science may satisfy them of the prudence of remaining loyal ; but it fails to create that positive attachment to our rule, that active loyalty which can come only of a common religious faith. English education viewed politically, must result in great good, but the good is uncertain.

It is sometimes urged that by giving our native subjects an English education, we are preparing them for the day when, England's mission in India being accomplished, they will be left to govern themselves. Indeed, the necessity of training them to the business of self-government has been so often reiterated, that they are beginning to believe that we do really intend shortly to leave them to themselves. We cannot help thinking the notion mischievous as well as wrong. England has no idea of relinquishing her hold on India, and to encourage such a belief is to encourage a hope that, in all probability, will never be realized, and to promote a restless, disaffected spirit which will be intensified rather than allayed by the lapse of time. The political and commercial considerations that keep us in India just now, will compel us to retain permanent possession of the land. But admitting for the moment that it is England's mission to teach India's sons the art of self-government and so clear their way for successful competition in the great race of nations ; is education the all and in all by which this end is to be gained ? The question brings us to a consideration of the reasons why the change in our educational policy, which in some respects has been an undoubted success, has been a failure in a moral and social point of view. That knowledge is one of the elements necessary to the development and support of political independence, we do not dispute ; but that it is the only mental qualification required, we deny. For such independence

moral power is needed as well as intellectual; but mere secular knowledge never yet created moral stamina. Knowledge never yet made a dishonest man honest; a selfish man generous; or a sensual man spiritual. It expands the intellect and gives power, but it does not direct that power, or change the moral character of its possessor. Ignorance may be 'the parent of vice,' but education is not the effective purifier of morals. A nation may be filled brimful with secular knowledge, and the springs of its moral being remain as polluted as ever. Knowledge is power, but it is not virtue; it is power, but that power may be used for evil as well as good. In saying this we are not setting forth the deductions of reasoning, but quoting the testimony of historical facts. Greece and Rome were both highly intellectual and philosophic; but what was their moral character? And so let us suppose the Bengali in possession of all the secular knowledge we can give him. He can quote Milton and Shakespear; he can write florid essays on 'the elevation of the people of India'; he can direct engineering operations; he can make our treatises on political economy or mental and moral science as familiar to him as household words; our exact and liberal sciences he may become acquainted with down to the latest investigations and discoveries. Suppose him left to govern his own land, thus equipped, but with no provision for his moral nature, and an entire stranger to all healthy moral discipline. What would be the result? How long would anarchy be averted? With the knowledge that all Bengalis have of their own countrymen, with the instinctive suspiciousness of their nature; with the effeminacy that has been fostered for ages; with wives and mothers utterly unqualified for their respective relations; with the accustomed triumphing of might over right; with their present unsusceptibility as to moral influences, and their want of moral courage and energy, and with the lack of a proper physique which must come of something more than dal and rice; in a word with that entire prostration of public confidence which would follow as the natural result of moral weakness on the part of the rulers, the government of the Bengalis, should it begin as a monarchy, would soon break up into a polyarchy whose separate elements and interests would, in their turn, get mixed up into a glorious anarchy.

We have no wish to offend the feelings of the educated classes of the country; but the truth, however unpalatable, is wholesome and ought to be told. We do not deny that there are oppression and effeminacy, sordid selfishness, forgery, perjury and murder in Christian England too; but the characteristic difference between Christian England and heathen Bengal is, that in the former

country, public opinion calls crime crime, and condemns it as such; whereas in the latter a man who commits the basest of felonies receives the unrestrained sympathy of the most enlightened classes of society. In England there is a moral standard, universally acknowledged, by which conduct is measured; but here the power to oppress and wrong one's fellow-men gives the right to do so. Where a true and reliable moral standard does not exist, it must be created; but mere secular knowledge is unable to create it; and we must look beyond education for the power that is to give principle and character to the people whose intellects we are training for the battle of life. There is no true morality apart from Christian truth. The conscience is enlightened and strengthened, the moral affections are rightly directed, the moral regeneration of a man can be effected, only by the belief and reception of the Gospel of the Christ; and until this Gospel has free course and is glorified in India, not all the science and learning we can give her sons, will raise them to true manhood, or qualify them to take a place in the front rank of nations. India can never attain true greatness or be any thing more than an appanage to some European power, until she receives and is leavened by that Divine element which has been the strength and support of Christian England—'the truth as it is in Jesus.' If the earth did not periodically turn its face to the sun, no soil would be productive; the seed embedded in it would remain dormant if for ever without the action of heat. And so it is with the native mind. There are seeds of truth in it, moral capabilities, which only await development; but these germs will remain for ever dead unless that mind is brought into conscious contact with Jesus, the Christ, the central sun of Truth.

We come now to a question that has been agitated with renewed vigour since the rebellion of 1857—ought the Bible to be systematically taught in the educational institutions of the Government? Great differences of opinion exist on this point. The Government maintain that they have a policy, and according to that policy they ought in no way to interfere with the religions of their native subjects; that they are pledged to a wise neutrality and that any other line of conduct would alarm the people, and make our hold on the country most insecure. In reply we observe, in the first place, that the government are *not* pledged to a neutral policy; and in the second place, that they have themselves violated that policy already. Whatever may have been their professed policy during the times of the East India Company, certain it is that Queen Victoria, in assuming the immediate government of her Indian Empire, distinctly defined her relation to the prevailing

religions of the land as that of a Christian Sovereign *tolerating* the religious beliefs and observances of her heathen subjects. The Proclamation, did not assert that, in deference to their prejudices, she would hide her Christianity and ignore its obligations in all her relations with them, because she could not conscientiously embrace Hindooism or swear by the Koran; but that she would not, after the example of their other conquerors, forcibly impose her creed upon them, but would, in all matters concerning religion, respect their feelings and tolerate their observances. Wide indeed is the difference between this toleration and the neutrality we hear spoken of. Will any one venture to say that for the Government to establish a class in every college for teaching Christianity would be a violation of any pledge expressed or implied in Her Majesty's proclamation? In establishing such a class, we should neither de-Hindooise the Hindoo, nor de-Moslemise the Moslem; it could not be said that we were persecuting the pupils into renouncing the creed of their fathers, for they would be under no restraint to attend the Institution; and indeed, the moral suasion which alone could be employed in recommending Christianity to their attention, would be the strongest guarantee they could have, that their religious feelings would always be respected.

Our second indictment charges the Government with a violation of their own neutral policy, and has two counts. First that the Government have already interfered knowingly with the religion of their native subjects; and secondly, that they have shown that favour to Hindooism and Mahomedanism which has been denied to Christianity. To prove the first count, we need but recall, all that the Government have done to dispel ignorance and enforce public morality. Every effort that has been made in either of these directions has been a thrust at the religious beliefs and observances of the people. It is a part of their religion to believe that Rabon seized with hunger, and being gifted with jaws of unrivalled expanse, makes periodical attempts to swallow the moon; but the Government by teaching them the true theory of eclipses, have knowingly interfered to overthrow their faith in this article of their creed. It is a part of their religion to believe that the earth rests on the back of a tortoise; but the Government have been teaching them Newton's theory of attraction, and as a consequence, another item has been lopped off the tree of religious belief. Their religion teaches them to believe countless legendary absurdities which violate every principle of chronology, history, reason and common sense; but the Government, by unfolding before them the treasures of true history, have destroyed their

faith in the historical pretensions of the shastras. These legends form integral parts of their religious creed, but a government education has shown them to be only obscene myths. The Hindoos are taught to believe that the man who inhales the smell of an Englishman's dinner is defiled; and we have heard of an orthodox Hindoo, who, to escape the odour from Dr. Carey's cook-room which happened to be built close by, vacated the house in which he had lived for years, and removed to a distant part of the town. Yet the tendency of education has been to bring Young Bengal to our hotels and refreshment rooms, and stimulate within him an unmistakeable relish for beefsteaks and brandy and water. It was a part of their religion for Hindoo mothers to throw their female infants alive into the sea, into the very jaws of alligators floating about and watching for the prey; but the Government have peremptorily forbidden the inhuman rite. It was a religious observance for the Hindoo widow to throw herself on her husband's funeral pyre; but the Government have abolished the rite of suttee. It was regarded as a religious obligation for a woman or girl once widowed, to refrain from contracting a second marriage; but the Government have interfered to legalise widow marriages. In these and other respects, do the Government stand convicted of having disturbed the religious beliefs, or discountenanced the religious observances of their Hindoo subjects. And the same may be said of their Moslem subjects. The very fact of our holding sway over them is a serious violation of their religious prejudices; for are they not bound, by all that is sacred, not to keep faith with infidels, or suffer themselves to be ruled by an infidel power? If our neutral policy requires that we should abstain from all interference with the religious feelings and observances of our subjects, then, for consistency's sake, we ought to restore the dominion to the Mahomedans; or, if we are not prepared to make so great a sacrifice to principle, we ought at least, to let our Hindoo subjects revel undisturbed in their religious immoralities and crimes.

We are perfectly aware of the grounds on which the State would attempt to justify the interference we have noticed. We shall be told how impossible it is for an enlightened people like the English to come into contact with the ignorant and debased masses of this land without to some degree influencing their intellectual and moral condition, and how such a result could no more be prevented than can the dispersion of darkness when the light begins to shine. We shall be told that the Government have interfered to prohibit certain rites and observances, not as having to do with religion, but as subversive of that public morality and

decency whose interests they are bound to protect. We may be asked, by way of an *argumentum ad hominem*, whether we really blame the Government for substituting true history and true science for fabulous legends and doctrines 'which would move laughter 'in girls at an English boarding-school'; and for legislating in defence of the interests of humanity. We unhesitatingly answer, no; these things have our unqualified approval, and must have the approval of all right thinking men; but, alas! for the consistency of the Government; alas! for the neutral policy of the State that cannot provide for the most obvious necessities of public morality, without riding rough shod over the most sacred prejudices of its people, and crushing with imperial interdict their time honoured religious observances. What shall we say of the honesty of a Government that can with one hand stroke the heads of their subjects and tell them that their religious feelings will be scrupulously respected, whilst with the other, they are plucking up their religions, root and branch? Of course we are exhorted to distinguish between religious and public morality; but when, binding ourselves by the self-imposed pledges of a neutral policy, we undertake to legislate for a state of society in which every social custom, every practice whether moral or immoral, and, we had well nigh added, every movement of limb or muscle, is religious, where shall the line of distinction be drawn? The Hindoo does not distinguish between religion and morality; to him all distinctions between moral and immoral are merged in the one idea of religion. To him female infanticide, suttee and the prohibiting of widow marriages, have no moral aspect; they are questions wholly religious. Accordingly he accuses the Government of interference with his religion, and the accusation is true.

Not only have the Government been tampering with the religion of their native subjects, but they have gone out of their way to treat Christianity with studied disfavour. The case of the Sepoy at Meerut who was dismissed from the army for no other reason, secret or declared, than that he had become a Christian; the order prohibiting Christian gentlemen from worshipping with native fellow-Christians, as happened in the Punjab; the careful removal from all school books of the Christian element, as in Bombay; and the almost universal prejudice on the part of officials against native Christians, are but so many indices of the feeling with which the Government regard the religion of the Christ. Indeed, it is needless to detail the numerous facts that painfully and too clearly illustrate this undisguised hostility to Christianity, when we find the inference to

be derived from them already embodied in the belief, universal among the natives, that the Government do not wish them to become Christians. If the state had been true to its neutral policy, whence could this belief have sprung? How is it that Hindoo and Mahomedan servants of Government are free to proselytize to an unlimited extent and in the open face of day, but the moment an English officer opens his lips to tell his heathen subordinates of Christ, he is visited with the wrath of a Governor General? Why is it that a Hindoo priest or Mahomedan mouljee may be admitted to any department of the Government service, but no Englishman having once been a Christian Missionary, can become a teacher in a Government College? Why are the sacred books of the Hindoos and the Koran of the Mahomedans read in Government colleges, and the Bible of the Christians excluded? Why is a Director of Public Instruction suffered to remove from English class-books every allusion, however remote, to Christianity, whilst the Bengali text books, selected by the Government for the examination of those who wish to pass in the vernacular, remain ineffably obscene and filthy? Why need we say more? We have said enough to show that the State is in every way daily violating its neutral policy, and has forfeited all right to appeal to it in justification of its refusal to teach the Bible in its institutions.

But the Government are not alone in opposing the introduction of the Bible as a class book into their colleges and schools. It is sometimes objected, that if the Bible were to be introduced, there would be unseemly and perhaps interminable squabbles among the various denominations of Christians, as to which sections should furnish the Bible lecturers. But this objection is unworthy of serious attention. Denominational questions, however important in some respects, ought always to be held in subordination to vital truths; and were matters at any time to be so arranged as to make the Government anxious for the services of some of the agents of the various Missionary Societies that occupy the country, we should regard it as sinful to allow the strife of *isms* to interfere with the communication of Christian truth to those who are perishing for lack of knowledge.

Or, it is further objected, if we do not engage Christian Ministers or Missionaries to teach the Bible, we must leave it in the hands of the teachers on the staff, many of whom entertain infidel views, and are Hindoos or Mahomedans. We are asked, if we can safely entrust the Bible to such men. Instead of unfolding the doctrines of our religion, their time, it is presumed, would be spent in filling the heads of their pupils with all the ribald

objections to Christainity they can find, and in trying to excite ridicule against the inspired Word. But admitting that much of what is apprehended would take place, what then? Men may laugh at the Bible, and they may hate it; but to despise it, is more than any mortal, who has once become acquainted with its truths, is able to do. And as to the propagation of infidel objections, these never yet deterred a man, who was not previously anxious to smother the rebukes of conscience, from a candid investigation of the truth. Whether accompanied by such objections or not, the leading doctrines of the Gospel would have to be taught; and in these doctrines, by whomever spoken, there is a living power which can assert itself in spite of human opposition.

It is our deliberate opinion that the Bible ought to be a class-book in every Government College and School. We have considered the reasons for and against its introduction, and have come to the conclusion that the arguments for the measure are weightier than those against it. The majority of Dissenters, or as John Bright would have them call themselves, 'Free church men,' are opposed to the measure, on the ground that it will introduce a state-church element into the relations of the Government with the people, which would be highly prejudicial to the healthy development of Christianity in the land. The principle on which they take their stand is, that the state should have no connection with religion, and that the invariable effect of such a connection, as they believe the history of Europe shows, is to despiritualize the holy influences of Divine truth by an admixture of secular principles the tendency of which is to deaden the spiritual consciousness of men. Whatever force the argument may seem to have in Europe, we fail to see its applicability to this country. Here the question is not one of sects and denominations all holding the same Christianity, but a question of truth and error, a truth whose dimmest rays are a very glory when contrasted with the gross darkness of error that envelopes the people. Christian truth, so long as it is Christian truth, accompanied by whatever paraphernalia, ceremonial, or denominational creed, ought to be hailed as an unspeakable blessing whenever it comes to abolish the idols and overthrow the superstitions of heathenism.

We advocate the introduction of the Bible into the educational establishment of the Government for two reasons. First, without it as a class-book, the English education we profess to give is grievously defective. Secondly, without it the moral education of the people can never be accomplished. Let us look at these reasons in the order in which we have stated them.

First, without the Bible, that is, the English Bible, as a class-book, the English education we profess to give is seriously defective. No such education can be complete without a knowledge of the Bible. Not only does this book contain the most ancient authentic history, and the truest moral philosophy, but its language and its spirit so permeate our literature, that that literature cannot be understood without a thorough acquaintance with its contents. The pupils of our Colleges and Schools are taught to believe that the world's history begins with the siege of Troy, an event which dates after the settlement of the Israelites in Canaan, after the death of Joshua, and during the times of the Judges. The entire antediluvian era, the time immediately succeeding the deluge, the period during which Egypt acquired its learning and greatness, the patriarchal age, the whole four hundred years occupied in Israel's growing into a nation, in a word, the first three thousand years of human history, are represented by a blank page, just because the Bible must not be taught. A large section too of the contemporaneous history of the following thousand years, embracing the chronicles of the Assyrian and Babylonish empires, is for the same reason excluded from the course of historic study, thus rendering that course essentially defective.

It is the same with the literary aspect of the case. The man who has not studied our English Bible cannot be said to appreciate our literature, and yet here we are teaching English without the Bible. A serious objection in England to a revised translation of the Bible, in which it was proposed the new readings should be incorporated with the text, was, that such a version would hopelessly unsettle the minds of the people, with whom the very words and phraseology of the Bible have become a part of their religious consciousness; and that any advantage to be derived from it, would be more than counterbalanced by the rude jostling out of the old and smooth worn channels of religious thought, which they would experience. Now, the relation between our Bible and our literature is similar to that which exists between the phraseology of our Bible and our religious consciousness. As leaven permeates dough, as water soaks into the soil, so have the phraseology, the ideas, and generally speaking the spirit of our Bible spread themselves throughout our literature. To make the pupils of our Colleges and Schools intimately acquainted with our literature, and yet to keep from these our Bible, is to give a medical student a minute description of the organs of the human body and their functions, but to omit all mention of the blood or its circulation.

The Christianity whose history the Bible embodies, and whose spirit and principles it reveals, and which, more than any other element, has served to mould and direct the destinies of nations, ought to be understood by all who lay claim to an enlightened education. The history of Europe from the times of the Roman Empire is inexplicable without understanding the religion that dared imperial edicts, triumphed over heathen hate, swayed the politics of nations, and ultimately became the inspiration of Protestant Europe. To understand the history of Rome, or Germany, or France, or Spain, or Holland, or Switzerland, or, above all, of England; to discover the secret springs of the energy that has made our island home the greatest country in the world, a man must read the Bible, and must know Christianity. This is the only key to the interpretation of some of the most potent and far reaching influences that have underlain European history, and that underlie it now. The history of Christianity is inseparably associated, too, with the history of that march of intellect which has resulted in the gigantic discoveries of modern science, the inventions of art, and the amelioration of the physical and social no less than the moral condition of men. Helping the European mind to break off the fetters of an ignorant and superstitious bondage, Christianity stood forth and bade it go free; and since then the fruits of freedom have been multiplying on every hand. To teach English literature, the history of European politics, and the history of intellectual progress without giving the Christian religion and the Book that teaches it a prominent place in the scheme of study is, as if a photographer were to try and explain the process by which pictures are obtained without alluding to the sun's light. We have read of two negroes who stopped to discuss the use of the Electric Telegraph. What is the use of the wire? asked one of them. 'To keep the posts together,' was his friend's reply. 'And what is the use of the posts?' 'To support the wire,' was the prompt rejoinder. Is not this an illustration of the result obtained by the education Government institutions are giving? The students are taught all about the posts supporting the wire and the wire helping to keep the posts together; but of that Christianity which has been the electric spark to quicken our literature and politics, and make Europe intellectually what it is, they are suffered to know nothing. Sir James Colvil, the late Chief Justice of Calcutta, in a minute written when he was a member of the council of education, said respecting the study of Arabic in the Madrassa: 'I myself see no objection to the use of the Koran and commentaries on it, approved for their elegance as class-books. It seems to me,

'that to do this, in no degree infringes on our principle of withholding religious instruction. We may teach them as they would be taught at Oxford or Cambridge, if the study of Arabic were practically pursued in either University. Those, moreover, who think that we conform to the rule by excluding the Koran, take but a superficial view of the subject. The mission of Mahomed, for instance is the basis of Mahomedan law, and in the Hedayah many rules of conduct will be found which rest on no better foundation, and have no higher sanction, than a tradition of some revelation to the prophet, more false and more absurd perhaps than any thing to be found in the Koran. On these grounds, and looking to the peculiar constitution and exclusive character of the Madrissa, I should be disposed to brave any amount of cant and nonsense, which the introduction of these books may evoke.' But if it were 'cant and nonsense' to protest against the study of the Koran in a college endowed and maintained with the express view of teaching Mahomedan literature, is it not 'cant and nonsense' to forbid the study of the Bible in colleges established for the express purpose of teaching English literature and European history and science? Yet the same Government that see no danger to their neutral policy in encouraging the study of the Koran, shrink with sudden sensitiveness when they are asked to make the Bible a class-book in our English colleges!

Our second reason for the introduction of the Bible is that a knowledge of it is indispensable to the moral education of the people. The precepts inextricably interwoven into its historical narratives and biographies, form the basis of all true moral philosophy. The study of this philosophy has not been so popular in Government Institutions as the study of the physical sciences; and the reason appears to be, that it is taught superficially, because the Bible is not acknowledged as an ultimate authority. From this Book alone do we learn the true source of all moral obligations; here we have the fullest explanation of man's moral nature and its intricate workings; here alone do we learn emphatically to know ourselves. To this Book do we make our ultimate appeal in all doubtful moral questions; its precepts and principles we uphold as the standard by which our social relations ought to be regulated, by which, too, we judge the moral character of our literature. Can there then be moral training without the Bible? It is impossible.

But why need we stop here? As the guardians of the public morals, it is the duty of the Government to discover and lay bare the prolific source of all the vice and immorality that flood

the land ; and they must acknowledge that it is the religion of the people that has caused their moral prostration. And what would be the duty of the state in the face of such a discovery ? Obviously to use every lawful and wise means to loosen the hold this religion has on the minds of its votaries. And this ought to be done now. But would not setting their face against Hindooism and Mahomedism be a violation of the neutral policy the Government have pledged themselves to ? It would ; but the Government have no right to have a neutral policy. Their neutral policy is an immoral policy and an offence to God. We can understand such a policy being perfectly fair and justifiable in the case of two religions both of which are false ; but to declare for neutrality when virtue and vice, purity and licentiousness, light and darkness are concerned, is not only to obliterate all moral distinctions, but positively to exalt vice and make darkness preferable to the light of Divine truth. The Government altogether mistake their relation to the people of this land. The question is not whether Christianity as a religion, may or may not be classed with other religions, in the attitude which a state may assume towards it ; indeed, the question before us, is not one of religions at all ; it is simply whether the Government of this country, are justified in assuming the same attitude to morality and immorality—to loyalty and political disaffection. Hindooism is, essentially, immorality ; Mahomedism is, essentially, political disaffection ; and the question is, whether the Government have a right to degrade that Christianity which teaches the love of God, which inculcates the highest and purest morality, which inspires the soul with good will towards men, and encourages only what is pure and lovely and of good report, to a level with the obscenities of Hindoo idolatry, or the malignant hate of Moslem fanaticism. What right have any Government to be neutral in questions of morality and immorality ? Is it credit, or is it shame, that properly attaches to a policy that glories in viewing with equal indifference, the most debasing sensuality and the most exalted purity, dishonesty and honesty, falsehood and truthfulness, crime and uprightness, the service of devils and the service of God ? The Government set themselves up as the custodians of public morality ; but their neutral policy is the main bulwark in this land of all that is cruel in lust, of all that is destructive of the confidence that should cement the social relations of life, of all that is demonizing in the worship of incarnations of sin, and of all that is dangerous in a rabid fanaticism. How can they protect the interests of public morality when they themselves mount sentry over the haunts

and dark places of vice to guard them against intrusion ; when wickedness and crime have but to cry out, ' we are religion,' to receive shelter behind the breastwork of our neutral policy ?

To accusations such as these, the Government may perhaps reply, what can we do more than educate the people and show them the folly of their idolatrous superstitions ? We rejoin, education has in great measure done this already ; but has the character of the people improved ? They are thoroughly convinced of the folly, the absurdity of their idolatries ; but has the conviction checked immorality, or made them pure, honest and truthful ? Is the national escutcheon getting quit of the stains of perjury and forgery ? Is caste despised ? Is vice discouraged ? Alas ! no. The people require to be convinced of more than the *folly* of idolatry ; they must learn that it is *sin*. Do they know what sin is ? Their only idea of it is that of some ceremonial pollution, or the neglect of some religious rite. Of its moral turpitude, of its relation to God and His Law, they possess not the faintest conception. This higher conviction must be created ; and to accomplish this, they will need more than a mere secular education. To awaken and urge into activity that moral sense which God has implanted in every human breast, we must give them a knowledge of Divine truth. They must have Christianity, without which all the talk we hear of moral reformation will prove in the end to be.

' a tale

' Told by an idiot, full of sound and fury,

' Signifying nothing.'

Christian truths should be mingled with the secular instruction given in our Colleges and Schools ; Christian principles should be taught, and the Bible be read, not only on account of its history and its literature, but also for its moral philosophy and its religion.

But before we conclude, let us guard our readers against the supposition that we regard the purely secular education of the Government as an unmitigated evil. Viewed in a Christian light, it cannot but be regretted that this education is not leavened with religious truth ; but it is not on this account wholly mischievous. Knowledge is power ; and knowledge uncontrolled by moral or religious principle is more likely to become powerful for evil than for good. Nevertheless there is an advantage connected with even such knowledge that makes it favourable to the reception of Christian truth, for it imparts the ability to investigate that truth in its historical and philosophical aspects, and to test its pretensions by means which are accessible to educated men only.

There are sources of evidence, sealed to the ignorant, which none but men of knowledge can appreciate. The philosophy of the plan of salvation may, in its grand outlines, be understood by an unlettered man, provided he is a man of thoughtful intelligence; but Christianity, it must be remembered, is a historical belief, and as such, can be properly estimated only by those whose trained intellects qualify them for historical analysis. To such there is evidence from testimony, from observation, from research, from a reflex scrutiny of the hidden wants of human nature, which cannot but establish an unalterable belief in the Divinity of the Gospel of Jesus. The apostles recognized the difference between lettered and unlettered men when they set forth to declare the tidings of life. They went not to Scythian hordes and barbarous tribes, but to Antioch and Philippi, to Ephesus and Corinth, to Athens and Rome; they went to places where Hellenic culture had in great measure, prepared men for an examination of the new doctrine.

Believing then, as we do, that the better educated a man is, the more favorably is he placed for the reception of Gospel influences, we do not charge the education which the Government give with a tendency to retard the progress of Christianity in the land. It is our belief that the Deists, the Transcendentalists, the Brahmists, and whatever else they call themselves, that constitute Young Bengal are nearer the kingdom of heaven than the multitudes who adhere with all the tenacity of ignorance, to the gross superstitions of their fathers. They occupy a transition state, which must ultimately be relinquished for Christianity. Theirs is just now only a negative creed, and nature does not abhor a vacuum more than the soul of man a negative creed. Young Bengal must therefore soon look out for something positive, and that positive thing will be the Gospel of the Christ. If however the present policy of the Government is persisted in, the result we are anticipating, will owe none of its success to them. Their neutral policy forbids them to do any thing for the moral improvement of their subjects, and by that policy, they must be content to be judged.

ART. III.—1. *The Jail Manual.* By C. Hathaway, M.D., Lahore.

2. *Jail Circular Orders.*

3. *Punjab Jail Reports.* 1860-61.

OVER-ZEAL in the advocacy of a cause is only too apt to rouse a spirit of vindictive opposition, which forgets that ordinary decorum is essential to fair controversy. When men act as if under the conviction that their motives are an atonement for the means they employ, they must not be surprised if the public repudiate their theory. It is of the highest importance to the cause of morality that sincerity should never be accepted as a justification of indiscretion; for if the world were disposed to judge otherwise, society would be infested by fanatics of all sorts, indulging in unwarrantable excesses under the assumed sanction of what may truly enough be called 'correct motives.' Philanthropy itself has suffered in public estimation from the unscrupulous advocacy of those who glory in having raised it to the dignity of a profession. They have almost justified the censure of the critic who says that 'if, by any stretch of mis-understanding, philanthropists can commit an illegality, they will.'

One of the departments of philanthropy has of late been so paraded before the public, and its advocacy so peremptorily declared to be a public duty, that it has rather lost than gained ground among those who were not less its friends because they were more temperate as its advocates. As the most recent exhibition of fatal zeal in the defence of a social cause, we refer our readers to the conduct of certain anti-slavery societies in the case of the fugitive slave Anderson. How the English applicants for the issue of the writ of *habeas corpus* into Canada have influenced the temper of the Canadian public on the question of slavery in general, may be inferred from the indignant language in which the colonial journals have discussed the subject, and the severe terms in which they have denounced some of the anti-slavery societies of England.

Nor yet has the most holy cause of all—the cause which connects man's highest duties on earth with his most cherished hopes in heaven—escaped injury from the efforts of those who 'loved it not wisely, but too well.' Though the paramount importance of religion must ever be its best protection against slight

or censure, yet its enemies have not been at pains to distinguish between religion and the phantom which some warm minds have associated with it.* If it fares thus with over-zeal in the advocacy of a cause the importance of which no man can exaggerate, what must it expect when it labours in the defence of the ordinary interests of society, which a man may accept or reject without incurring censure or gaining approval? Nor is it less true that whenever this liberty of choice has existed, men have invariably embraced the cause which, if not generally popular, had yet no reasons to be ashamed of the allegiance of indiscreet partisans.

Though the question of crime has been discussed from every point of view, the subject of this article has not as yet attained the distinction of a social cry. Much that has been said or done in its behalf has been characterised by that regard to common sense which leaves us but few prejudices to combat; much has already been done for its practical advocates by the able theorists who have succeeded in popularising its details; but much yet remains to be done, and if we can refrain from the over-zeal, of which we have spoken above, there are no just grounds to apprehend any unexpected opposition from the public.

In fact the condition of our criminals is not a subject which admits of the display of much enthusiasm, nor has it ever been so zealously advocated by any large body of public men as to draw on it the gibes and sarcasms of an exasperated opposition. Negro slaves have had as many vain-glorious though sincere friends, as determined and bitter enemies; a plausible case is made out for them by a mere setting forth of their real or fancied wrongs. Their loss of liberty, their moral degradation, their helpless condition and their generally inhuman masters, will always enlist in their behalf the sympathy of even those whose self-love is otherwise proof against the ordinary weaknesses of human nature. But for men convicted by a court of justice it is not easy to invoke even just compassion; it is not easy for the public to sympathize with those whose sufferings seem to be ordained by the laws of their country. Far from deserving the censure of late so liberally lavished on us 'for attempting to rescue men from the natural retribution of their own acts,' we aver on the contrary that the public are willing to acquiesce in a little more misery for those who, as it sometimes may appear to them, have even in the sight of the law some misery to suffer. It is only in cases of

* 'The multitude,' says Ricasoli in his letter to the Pope, 'little accustomed to subtle distinction, may in the end be led to impute to religion that which is but the act of men who are its ministers.'

revolting retribution that attempts are made here and there to mitigate the sentence.

Far be it from us to plead for licence or to relieve vice of its drawbacks, but let us warn our social philosophers against any over-great severity in the treatment of those who have offended against the law. 'Over-great penalty,' says Lord Bacon, 'besides the acerbity of it, deadens the execution of the law;' while the illustrious Beccaria describes 'the end of punishment' 'to be no other than to prevent the criminal from doing further injury and to prevent others from the like offence.' It is not politic to overlook the leading maxims of penal legislation, but it is a matter of congratulation with our jurists that, to some extent, the severity of some of our penal enactments were rather threatening than destructive, and that when a general practice had opposed law, experience confirmed us in the belief, which the memorable master of the Rolls, Sir William Grant, did not fear to avow, 'that, there was no doubt the law was in 'wrong.' Jeremy Bentham also observes in words shewing deep insight into human nature that 'the mildness of the national 'character triumphs when the law is unjustly severe.' We do not contemplate the extinction of crime, and if such a moral crusade were practicable, cruelty would not ensure success; but if intimidation could prevent crime, the system of Draco is the only sound one. It is not our object, however, to discuss here either the nature of crime or the justice of punishment, nor yet to inquire into the merits of our penal statutes, and to provide for the offences under their cognizance what we may deem adequate penalty. We do not emulate the ambitious labour of jurists and legislators, but are content with the honor and responsibility of an humbler task: we shall venture to suggest in these pages the means by which the most ordinary mode of punishment may be utilized both as regards the interest of Government and the necessities of society.

Simple though the nature of imprisonment may be, social philosophers have not been unanimous as to its object. It is not easy to determine whether imprisonment should aim at punishment or reform, or to quote the words of the once angry disputants, 'whether it was to be moral reform or penal discipline?' Is the criminal to suffer to the extent of his guilt and be allowed to return to a life of evil, or is it necessary that we should adopt means to reform his character, while he is suffering the penalty of past misconduct? There are some who are only too willing to solve the question by the light of *lex talionis* while others would so far forget the nature of penalty, as to overlay it altogether with the attempt to reform. Indeed, the majority seem inclined

to advocate reform at the cost of punishment, but as it may easily be supposed such a system is seriously defective in its practical bearings.*

We are willing to admit the justice of the remark that 'not one out of a thousand thieves has been reformed by passing through a prison,' yet it would be dangerous to attempt to reform a criminal without subjecting him to the penal consequences of his conduct. But to blend punishment with a moral education much more effective in its deterring virtue than the inconvenience consequent on the loss of personal liberty is the system which we propose for general adoption. Though we advocate the blending of punishment with reform, we cannot forget that the security of society, not less than the sense of public justice, demands that we should punish the guilty first, and, if possible, reform him afterwards. To weaken the penal element of our system would be to convert our attempts at reform into a dangerous parody of useful benevolence. We must not offer the guilty any advantage over the innocent, or any other terms than those of strict justice; whether we do or do not succeed in reforming him is a matter of small importance when compared with the stern duties his conduct has entailed on us.

We entertain no doubt on the subject so eloquently discussed by a writer in the *Cornhill* that 'the majority of criminals can be reformed.' A committee of the House of Commons have elicited facts, which conclusively prove that the failure of our attempts may be more justly ascribed to the faulty system employed than to any extraordinary turpitude in the criminals themselves. If to punish the guilty without attempting to reform him be preferable to the Oriental system of retaliation, it is certainly not a system of prison discipline adapted to the wants of the nineteenth century; on the other hand, it is absolutely impossible to reform the criminal without subjecting him to the punishment his conduct has deserved; such a proposition does not require proof. The advocates of a purely punitive system forget that not only the present but the future also has a claim on our attention, while such as would sacrifice to a morbid feeling of philanthropy what is due to justice, cannot comprehend that an injury

* In Sir Joshua Jebb's Annual Report on the English Convict System, the following occurs:—

'The general principle laid down is that the means of reformation should be united with punishment, but that the deterring feature of the sentence should predominate. The system now in force in England combines these elements in a proportion based on experience; and there is reason to believe it has proved more conducive to the combined objects of repression and reformation, than if any undue prominence were given either to one or the other.'

having been committed, expiation is the necessity which must be first satisfied.

Our system therefore is to blend the penal, in itself never sufficient, with the correctional, which is now generally admitted as the only reasonable mode of handling criminals. Not to deprive imprisonment of any of its discomforts but to render its operation certain and its provision adequate are the objects we have proposed to ourselves. In striving to impress on the public mind the importance of the reformatory principle, we do not forget the primary object of punishment. We can only reform such as have already been convicted, but it is the penal character of our system which is to avenge the injury done, and warn others from doing the same. It is not difficult to perceive then, that, while our means of reform are limited to the convicted few, the deterring influence of punishment is intended to work on the large majority, whom we are bound to consider innocent.

If our system does not spring 'from any original starting point' we have at least been enabled to accept or reject the experience of those who have worked before us. The system has in its essentials already received a fair trial in Europe, and with what success the reading public are well aware.* But we have neither borrowed so largely or copied so closely the European system, as to forget the principle of assimilation without which no institution not indigenous to the country can flourish in it.

Having defined the objects of our system we shall now proceed to describe the means by which we hope to attain them; we hold out hopes of improvement to every prisoner whatever be his character or his guilt, and offer him all reasonable means of realising those hopes. We offer to the 'professional' malefactor the means of recovering his lost liberty and to some extent even his social position, and endeavour likewise to impress on his mind the guiding fact that, the prospects of each individual prisoner depend solely and entirely on his own exertions and on his conduct in jail. We trust to the influence of hope to rouse the reckless apathy of the most confirmed criminal, and to induce him to

* The following we extract from an article in the *Times* of the 4th of January last, on Sir Joshua Jebb's Report for 1861 :—

' We shall have said enough when we state that a small percentage only of convicts out on licence have proved undeserving of the indulgence, and that, notwithstanding the retention of these classes at home, and the increase in the numbers of our population, crimes and convictions are generally diminishing. That seems a conclusive result, and if we may believe in its finality or permanence it certainly reflects no small credit on the promoters and conductors of the system which has produced it.'

look up from even the depth of his misery and to strive for a better state of living.

The hopes defined, the means of realising them laid out, the other details of the system are matters of trifling difficulty, but yet we cannot forget that the system itself must be raised above the influence of individual caprice. No indulgence should be purely a matter of option with those to whom the working of the system may be trusted. It must not rest with them to forgive an offence, or to set aside a just claim to consideration; and if a prisoner has deserved an indulgence no man's impressions of him should militate against the principle on which it ought to be conceded to him. We must not permit any accidents to disturb the happy results, which we expect from the working of a perfect organisation. We must have either order or anarchy, a compromise is impracticable.

We are told by Sir Joshua Jebb that a disagreeable change in the prospects of the prisoners in 1857, made them unruly, sullen, and heedless of consequences. But to handle them with the least hope of success, we must influence their will so as to make them careful of consequences, whether for good, or for evil. It must be explained to them that they must either labor hard and behave properly to profit by the advantages we offer them, or follow their own vicious will and pay the penalty of their conduct. No refractory prisoner can long continue even in a state of comparative immobility; he must advance and save himself, or fall back and suffer. A correct record is preserved of his daily life, and he finds at the end of his four months' trial that a halt is not less unpleasant than a retreat, and the only means of avoiding the severe penalties of a backward move is to keep up a course of steady, even if slow, advance.

Individualisation furnishes a powerful motive to action. Where every man considers himself part of a system, to be praised or censured with a large body of sympathisers, the motive for individual exertion is weak. On the other hand, when a man regards himself as individually responsible to himself and to the public for his condition in life, he seldom fails to win for himself a fair share of the success which he has to divide with others, equally zealous to win in the struggle; and even if he is left behind, he will have at least the satisfaction of laying the blame on himself and not on his stars. Under the present system of jail discipline, disorderly conduct is punished with stripes or solitary confinement, but beyond the momentary personal inconvenience the culprit is neither better nor worse off than the rest of the prisoners; under the system we propose

every offender against the jail rules does not only suffer immediate inconvenience, but he finds himself distanced by others in his prospects of liberty.

We propose three periods of probation. Firstly, The compulsory out of door labor of the special class; Secondly, Solitary confinement and associated labor; and Thirdly, Tickets of leave. We also propose to divide the jail into four classes: The Special Class, then Class No. III. Class. No. II., and Class No. I.

'The special class has been tried for three years, and so far as 'it has been carried, it has been attended with marked success.' Thus writes a contributor to the *Cornhill*, and, as far as our own experience of certain similar attempts in the Punjab can serve as vouchers for future experiments, we are certain that its general introduction would justify our strongest expectations.

The special Class is to consist of, 1—All prisoners sentenced to four months imprisonment or under, not including the periods of commutation for fine and stripes. 2—Of all prisoners who have been sentenced to imprisonment in default of security for good behaviour. 3—Of such prisoners of the second class as have been allowed, as an indulgence, to complete the last four months of their term in the special class.

Special Class prisoners are to build their work-sheds under the outer wall of the jail, in one row and of a uniform size; if the sheds are built of any combustible material, they must be completely clayed over before occupation. No doors are allowed, but *tatties* may be used during the rains, the sheds are not to be walled off into compartments.

Special Class prisoners must work ten hours a day and cannot leave the workshop, without express permission from the superior officer present at the time. Such as are able to find securities for appearance may be permitted to sleep in their homes. One guard should be allowed to every ten special class prisoners, and an extra guard for every addition of fifteen prisoners to the class. The guards must count the prisoners sleeping in the workshops three times a night; prisoners are not to be disturbed in their sleep, unless unavoidably, nor is it necessary to identify each individual. Special Class prisoners may have half an hour's rest after mid-day, but they cannot leave the precincts of their jail quarters during such half an hour of rest, unless permitted by the jail officer or his head native subordinate. The standard of their daily work is to be adapted to that of free labor. Special Class prisoners are to complete their sentence of imprisonment by the number of working days. Three months imprisonment expires on the evening of the ninetieth day, exclusive of Sundays, and periods of

sick leave. Cases of illness are to be certified by the Medical Officer in charge of the jail, otherwise the prisoner's absenting himself from work renders him liable to punishment. Special Class persons are not entitled to any leave of absence except on medical certificate.

Special Class prisoners are to be allowed a gratuity amounting to one third of the proceeds of their labour. When it is feasible the prisoners must receive cash payment for their work, a third of the amount earned being made over to them. Should this not be practicable their accounts shall under no pretence whatsoever be delayed more than six weeks, during which time prisoners may receive daily advances for their food, or they may mess with the rest of the jail by paying for their rations. Special Class prisoners are to dress at their own cost,—each man according to his own liking—and he may purchase clothing material from the jail stores on credit up to the amount of gratuity already due to him. Special Class prisoners have to pay for their guard. Cases of contumacy, absence without leave, or any other infringement of jail rules are to be punished with loss of gratuity, stripes, or solitary confinement. Escapes must be punished as if from close imprisonment. Special Class prisoners shall not be allowed to enter the jail, and every breach of this rule should be severely punished.

Female prisoners of the Special Class are to be treated like the males, but in default of securities for appearance, a contingency not likely to occur often, they must be sentenced to close imprisonment with third class prisoners of the same sex.

On starting the Special Class, it should consist of all such prisoners as are suffering imprisonment in default of security for good behaviour.

The rest of the prisoners are to be divided into three classes. The third class is to consist of: 1—All cases of re-committals, unless specially exempted for good conduct. 2—All lazy and doubtful characters. 3—All those who have four months or less than four months of their terms of imprisonment to undergo. 4—All those who have been punished with stripes within the last three months of the formation of this class.

After the formation of the third class every prisoner on admission into jail must serve a probation of four months in this class before he is entitled to promotion. The third class is to be recruited by admissions into jail, and by reductions from the higher classes.

The three classes shall be kept separate from one another in the workshops, as well as in the sleeping wards. Third class

prisoners are to wear on the back of their *koorta* three red stripes; the other classes a number corresponding with their class in jail. Third class prisoners cannot communicate with their friends or relatives *under any necessity*; two thirds of the solitary cells are to be occupied by them in rotation, they are to be punished with the utmost legal rigour for the very first offence, and for every such case of conviction the prisoner must have an extra month of hard labor in the third class. They are neither entitled to any remission of the original sentence, nor are they allowed to fill any of the coveted offices in the jail.

Third class prisoners are to be sub-divided into three stages; the first, should consist of such as have six months, or under, of imprisonment to undergo; the second, of such as have twelve months and not less than seven months; and the third, of such as have over twelve months.

They are to be re-divided into three grades according to conduct and industry. At the end of each week two numbers are to be entered against the name of each prisoner; one, to indicate the nature of his industry and the other of his conduct in jail, three being the maximum number of marks, two the medium and one the minimum. After every four months trial, those who have obtained three fourths of the maximum both in conduct and industry, will have entitled themselves to promotion into the second class.

It will be optional with the jail officer, to divide the third class prisoners into working parties, and place them under the responsible charge of the select men of the first class. Third class prisoners who cannot claim any indulgence and who cannot be reduced to a lower class, are to be punished with an additional month of hard labor in the third class, for every case of breach of discipline. But when a higher class prisoner is reduced, he must work four months in the lower class before he is entitled to promotion. If a first class prisoner is reduced to the second, he also forfeits a moiety of the term of remission to which he might otherwise have been entitled. A second similar reduction deprives the prisoner of all claims to remission, besides rendering him liable to any other penalty which he may have incurred.

On starting the second class, it shall consist of prisoners of orderly habits and ordinary working capacity, who have not been punished with stripes or solitary confinement within the three months preceeding the formation of this class. The second class shall be recruited by promotions from the third, and reductions from the first class. It must furnish occupants to one third of the solitary cells; second class prisoners may receive visits,

from their friends and relatives once in two months, provided always that there be not allowed more than five such visitors in the jail on any one day. Unless guilty of any gross breach of discipline, second class prisoners shall only be reduced to the third class for the first offence; they may also, as an indulgence be allowed to serve out the last four months of their sentence in the special class; ten per cent of their number may be allowed extra food, at a cost of four annas a head, for any remarkable application to work.

The prisoner who makes a fair progress in reading and writing, or successfully assists others in doing so, is to be considered entitled to the highest mark for industry. Every prisoner in jail must be taught to read and write; those in the first and second classes must shew fair progress in their studies or be reduced and otherwise punished.

The first class shall be formed out of master workmen if well behaved and industrious; of all *Lumberdars*, if properly selected; and of all clever workmen, who bear a good character. This class is to be recruited entirely by promotions from the second; jail officers must not be hasty in the award of the indulgences to which the first class prisoners are, under certain conditions, entitled. That these indulgences may act as incentives to good behaviour, they must be reserved for those who have earned them by general good conduct and not through the mediation of friends; an abuse of them would result in the substitution of licence for what we may justly call restrained freedom. The second and third class prisoners may at the discretion of the jail officer be divided into small working parties, and be placed under the surveillance and orders of the select few of the first class. A first class prisoner cannot have a stronger claim to indulgence, than a successful management of the prisoners placed under his charge.

A first class prisoner must shew a fair proficiency in manual labour, and a fair progress in 'schooling,' and must also bear a good character; efficiency in other respects is not to atone for any drawback in this particular. First and second class prisoners must be divided in grades and stages like those of the third, they must also be housed apart, and no means be neglected to perpetuate the distinctions between the different classes.

The indulgences allowed to the first class prisoners are remission of a portion of their original sentence; exemption from corporal punishment; permission to receive two visits a month from their friends or relatives; the allowance of a monthly gratuity. First class prisoners are allowed to lay out half

of the amount of their monthly gratuity on food or clothes ; they may also be employed in Government works, if furnished with a certificate of good character.

Ten per cent of the first class prisoners are to be allowed a gratuity of twelve annas per month, and fifteen per cent of the remainder a smaller gratuity of eight annas per month, provided that the first class gratuitants have obtained three fourths of the maximum marks allowed for conduct and industry, and the second class gratuitants two-thirds of the said marks. If the number of those who are entitled to first class gratuities exceed the number of such gratuities, they shall hold and enjoy the second class gratuities in preference to those who may be technically entitled to them. First class gratuitants may dispense with the jail uniform, and otherwise provide for themselves at their own cost. At the discretion of the jail officer two of the first class gratuitants may once a month be allowed to absent themselves from the jail on business, but on no account are they to be allowed to stay out more than four hours, and the fourth hour of the leave shall not be later than two and three o'clock in the afternoon.

Of the remissions to be granted as rewards for good conduct and efficiency, we subjoin the following scale :—

In the case of a twelvemonth prisoner the remission may amount to one eighth of the term ; of sentences ranging from fourteen months to two years, one sixth may be remitted, of sentences of, from three to four years, one fifth may be remitted ; and of sentences of from five to seven years, one fourth may be remitted.

The condition under which remissions can be allowed are, 1. The promise of good behaviour during the term of the remission ; 2. The revocation of the licence to entail on the defaulter imprisonment for the full term of the remission ; 3. The prisoner on ticket-of-leave is bound to keep the police informed of his whereabouts ; and in default of doing so to be liable to revocation of the licence ; 4. When the licence is revoked the prisoner is to be re-admitted into the third class.

A third class prisoner must strictly observe the jail rules ; the first infringement of them subjects him to the utmost rigour of the penalty he has incurred. On the other hand it is in his power to work his way up into the second class and thence to the first where he shall have an enlarged freedom of action, and whence he may obtain his liberty under certain conditions.

It is necessary for the success of our system that it should be worked out by officers of experience, who have evinced an aptitude for jail management. Once established on a practical

basis the system, we think, would work with ease and uniform success; but it must be borne in mind that the least want of care or vigilance in the directing mind, would render failure inevitable. The jail officer should be the *de facto* governor of the jail, all interference with his orders by his official superiors should be unsparingly condemned. The district officer must support him with his authority, and the jail darogah must assist him with his intimate knowledge of individual prisoners, and of the internal economy of the jail. The district officer may hold the jail under direct management; but when he has once placed it under the charge of an assistant, he should never allow himself to be influenced by any feeling of jealous competition with his subordinate.

If the district officer finds it necessary to interfere, let him rather resume charge of the jail than suffer it to continue under any mismanagement that would necessitate the unseemly meddling of two authorities. Conflicting influences are fatal to discipline, and the system which depends so much on a homogeneous organization must succumb under the irregular action of hostile jurisdictions.

We must protest here against the involved duties of jail officers in the Punjab. Unless the evil is remedied at once, we must cease to look to that province for any progress in jail management. Besides a heavy file of revenue and judicial work, which cannot for ever so short a time be permitted to fall into arrears, the jail officer has charge of the Civil Treasury and is also trusted with the responsible duties of Secretary to the Conservancy Committee. Under such circumstances it is impossible for him to devote to the most irksome and, officially considered, the least important work, any time which he can with advantage apply to the discharge of the more congenial duties of Judge. It is thus that his native subordinate assumes charge of the jail and the jail officer subsides into a nonentity, as far as the jail is concerned, who may, at the will of his *de facto* master attach his signature to jail returns of which he does not pretend to know much, and to jail accounts of which he absolutely knows nothing.

In behalf of the Punjab jails we advocate a different division of labor; the assistant in charge of the jail should have no direct or active connection with either the Civil Treasury or the Conservancy Department, and he may then be expected to afford to the control of his charge a more undivided attention. Considering that the number of the Punjab jails have been most judiciously reduced, and an attempt has already been made to assign to each a branch of manufacture for which it may

possess peculiar facilities, we have reasons to hope that the supervising work of the European officer, will be lightened without impairing its efficiency.

We warn jail officers against too hasty a distrust of their native subordinates, as well as against the mischievous system of espionage. It is notorious how an officially recognised spy converts his influence with the jail officer into its value in money, and how, after a short career of doubtful usefulness, he succeeds in establishing a reign of terror within the precincts of the jail. All *bond fide* information must be acted on after strict inquiry, but no systematic espionage should be permitted to introduce a dangerous element into the executive.

It is also a very unsafe policy to administer severe rebukes to the jail darogah in the presence of his subordinates. Such a demonstration of ill will from the *de jure* against the too often *de facto* governor of the jail is subversive of discipline. The European officer cannot always be present in the jail, while his native assistant is at least expected to be so, and if the prisoners and the subordinate jail establishment are taught to condemn the darogah's authority, it is impossible to conceive by what means the jail officer hopes to preserve discipline among them. We strongly censure the laxity which permits the darogah to assume and exercise equal authority with his superior officer, but yet it is the *sine quâ non* of successful jail management that he should supervise the internal economy of the jail, and report for superior orders every case of irregularity that may fall under his notice.

The leading provisions of our system must be explained to every prisoner on admission into jail. This explanatory instruction is the darogah's special duty and he should be warned against slurring over so important a task.

It may not be unreasonable to expect that every prisoner will learn a good deal of his prospects in jail from those who have served some time in it, but by a direct official explanation we may be able to impress on his mind the importance which we attach to the subject. Every prisoner must learn from the jail authorities the connexion between his prospects in jail and his individual conduct in it; he must also learn from them what he has to hope from good conduct and successful industry, and what to fear from wilful mischief or contumacious idleness.

There will be in almost every jail some desperate characters, who would baffle all human efforts to reform them; but we must not lose sight of the simple and effective though harsh means at our disposal to counteract the force of their vicious example. In the

treatment of the incorrigibles we must adopt a mode not only summary, but also severe; for though a character for hardihood is associated with spurious honors both in and out of jail, yet the limits to human endurance are easily reached. In short we must not permit any hero worship among criminals; a hero in jail affords strong constructive proof of an imbecile in charge of it, and we cannot allow the shirking of due responsibility by a reference to the inherent character of the evil. No class of men have a keener relish of vulgar humour than those who have acquired some experience of criminal life; an easy going jail officer is the never failing subject of jail pleasantries and under such a weak shepherd the flock may be happy, but obedience will only be a matter of option. No just exercise of authority on the part of the jail officer can maintain even the shadow of order, if every attempt at reform is strenuously opposed, and the pliable authorities give it up as a practical impossibility. As a matter of course the jail hero leads the opposition, and unless his pretensions are humbled, it is impossible to enforce anything beyond the appearance of discipline. It stands to reason that the prisoner who successfully takes off the jail officer is not likely to submit patiently to the authority of the jail darogah; the jail establishment are in dread of his displeasure and concede to him the privilege of discretionary obedience to the jail rules. The jail hero is generally well informed of the malpractices of his comrades, and is not forgetful of the criminal leniency with which the jail establishment have condoned them. He jealously guards against any interference with the exercise of his prescriptive privileges, and if left alone is not wanting in due indulgence for the faults of others. But any complaint against his authority is effectually silenced by a threat, the sincerity of which is well vouched for by his reckless character.

A jail officer who has taken pains with his charge cannot be long doubtful of his antagonist. Having singled him out as an example to the rest of the jail he can proceed against him most successfully by carrying out to the very letter every jail rule in force. As a matter of course the jail hero is the chief offender against these rules, and under a vigorous management the jail establishment never fail to bring him to the notice of the European officer, and leave him to struggle as he best can against the chief controlling authority of the jail. The contest may be protracted, but the issue is never doubtful; the hero feels the spirit of the change; the happy days of subordinate management are over; he affects the most sublime indifference to punishment, and continues to pride himself in a

short-lived notoriety for unflinching hardihood. But between the hero and the martyr, the difference is not one of degrees. Adversity makes the martyr; the hero finds adversity unbearable. Once more he alters his programme and goes a step lower in the scale of distinction; he turns an informer and begins to stir up the cesspool of jail iniquities. The jail officer is of a sudden overwhelmed with criminal information against the jail establishment and any individual prisoner, who might have been slow of sympathy for the enraged hero. If the jail is not to be disorganized a general amnesty should follow a general warning, and all future delinquents treated without regard to the past. The baffled hero then descends from a position of power to one of contempt, and here ends his career of criminal glory. Reduced diet, solitary confinement, and corporal punishment are unfailing cures of so called incorrigibility, and in the treatment of such cases the utmost legal rigour should be adopted, for the question at issue is, whether order or anarchy is to rule in the jail.

Among the junior members of the Punjab commission a love of short imprisonments seems to have received an unfortunate development. In some cases the evil has found its way among officers of a wider experience. It betrays inability to appreciate either the duties of a magistrate or the objects of punishment; the magistrate seems reluctant to punish any, or too eager to punish all. Short terms ought to be very rare; where a fine would suffice, imprisonment is neither just to the criminal nor fair to the state. Fractional portions of a week should never enter into a sentence; no such nice discrimination is necessary in practice. A short term of imprisonment is often awarded, when a fine would meet the emergency of the case or when a longer term was necessary.

Professional offenders do not object to short terms and even seem to relish the alternation of liberty with imprisonment. Short terms cannot afford any reasonable opportunity for the operation of the reformatory element of a system, while they inflict certain loss on Government. Those who cannot discriminate between the necessity which would only warrant a fine and that which would justify a long term of imprisonment, are certainly wanting in an important quality of the judicial mind without which judicial efficiency is utterly impossible. We do not advocate too great a nicety in adapting the penal award to the offence, but broad distinctions should be observed if crime is to be punished and the pecuniary interests of the state to suffer no loss. The advocates of short terms have been consistent in their inveterate liking for solitary confinement, and though in theory

the principle they avow is perfectly correct, its practical defects are too glaring to pass unnoticed. We should wish all jail officers impressed with the necessity of strictly adhering to the provisions of the 73rd and 74th sections of the Penal Code. We should never punish any prisoner with solitary confinement more than once a year, exclusive of the period he may be specially sentenced to on conviction. Any unnecessary severity in the infliction of this terrible punishment is attended by those painful results, which the late Dr. Daly so feelingly described.

Viewed theoretically every prisoner ought to defray the costs of his keep, in practice however this never has been or ever will be attained. Though the obstacles which stand in the way of all such attempts at economy are not such as can be completely overcome, yet we shall offer a few suggestions which may help partially to overcome them.

Foremost among these obstacles is the very nature of forced labor. Compulsion has never proved a successful substitute for the motives of self-interest, which render free labor remunerative; in Cashmere where public works are done by impressed labor, even a small daily allowance has not proved a sufficiently strong inducement either to increase the quantity, or improve the quality of the work. This evil is inherent in the nature of imprisonment and must be accepted as irremediable; but by connecting the prisoner's prospects of liberty with his conduct in jail, we hope to supply him with motives for increased industry, and a more intimate interest in his work.

Though guards are indispensable to penal custody, they have hitherto been maintained at a cost which we do not attempt to justify. We trust, however, that with a special class and a fair system of ticket-of-leave, we shall be able to effect some reasonable reduction in this item of prison expenditure.

Every prisoner pays for his medical attendant, and the charge even if fair, is one of the necessities attending imprisonment. While free, he is killed or cured without any other cost to him than that of some physical pain, which he values less than money. He may be saved in the jail hospital, while the neglect of his village home may kill him, yet the consideration does not affect the pecuniary question, and the man who pays for his cure is in this respect worse off than the man who does not. Energetic labor, continuous but not excessive, is not less desirable in jail than out of it, and care must be taken that no prisoner whatever may be his taste or liking, is denied this healthy exercise. Charity cannot avail the poor in jail. He may be a professional beggar and his new career of industry may be strange and

irksome, but yet as long as he is in jail he is treated as a productive laborer.

We must also recollect that it is not every man out of jail that can honestly provide himself with the means of independent livelihood, and that many incur the alternative of debt. The poorer classes are but 'indifferently honest' in repayments of money obligations, and sometimes fresh debts are their only source of income. But as long as the bankrupt continues in jail—and the jails have a very large proportion of those who do not or cannot pay their debts—he cannot incur debts, though his love of industry is not increased by his being compelled to labour. He may work ill or he may work well, but he must be paid according to a standard dietary, and that standard is invariably high.

Peculation among the jail officials is also a charge against jail industry; jail officers who fancy that the ordinary supervision of indoor works has destroyed peculation among the jail establishment go far to prove how powerful faith is, when a habit of idle credulity precludes inquiry. It is impossible to check peculation in accounts by placing against the price of the raw that of the worked material, without also comparing the quantity of each. A maund of worked cotton is naturally much more valuable than the same quantity of the raw material, but unless the weight of the worked cotton is compared with that of the raw material provided for the manufacture, we shall be unable to calculate the value of the labour expended upon it, or check the peculations of the jail establishment. We do not produce in any of our jails such highly finished goods, as to render the application of the proposed test at all difficult; we know from our experience of one of the Punjab jails how successful the test was in checking the wholesale fraud of the darogah and his efficient staff of dishonest underlings.

It is impossible to overlook the mischievous results of the injudicious allotment of labor in jail. A free laborer makes choice of a trade, confines his attention entirely to it, and after the usual term of apprenticeship he earns by it his means of livelihood. If he is imprisoned, in nine cases out of ten, he is put to some work for which he has neither taste nor capacity, and, while he is undergoing a tedious course of preliminary teaching, the cost of his keep is a loss to Government. Sometimes the mischief is unavoidable; in a district jail a shawl weaver is an unproductive laborer, and lives on the charity of the Government. This however is merely an accident and does not always admit of a complete remedy; but it is the general evil which arises from a want of proper attention to this subject on the part of the jail authorities to which we have drawn our readers' attention.

The world outside the jail does not emulate our imperial apathy, and free labor is consequently remunerative. We are not told why labor and capital should be wasted in the production of goods for which there is no demand or which cannot be sold without actual loss. It is not usual with the monied world to buy in a dear market and sell in a cheap one, and still less to buy what cannot be sold at all. The jail officer can easily ascertain the wants of his own and the neighbouring districts, and the jails may so arrange it among themselves as to supply one another with articles of mutual necessity to their mutual advantage. It may speak in favor of the high artistic taste of the jail officer, if he succeeds in the manufacture of Turkish towels and fancy carpets, but while we have to contend for economy, the fine arts may with advantage be left to those who have the means and leisure to devote to them.

We should allot to each jail the manufacture of certain articles of general demand for which it may possess peculiar facilities. It is not intelligible to us why every jail manufactures its own clothing, if one jail in each division could supply the rest with the necessary material at a smaller cost? Committees may be appointed in different parts of the country to inquire into their local productive resources, and thereby determine the different manufactures, which may with advantage be apportioned among the several jails. Then when the division of labor has been judiciously effected, we should be in a position to undertake commissariat contracts, and undersell all private competitors. A jail ought to rest satisfied with small profits, but small profits must be made on large returns before they will replace the stock, pay labor, and remunerate the capital employed on them. It secures far larger gain to employ large bodies of men in one profitable work, than to engage them in different manufactures for which there is doubtful demand. Large bodies of men working in concert work more effectively and have greater facilities of improving the quality of their work; labor is better economised; accounts are better kept; and not the least of the advantages of combined labor is the profit on extensive purchases of raw materials.

When prisoners are employed on new work, they make the most of their opportunity and work as little as possible; every attempt to expedite work is successfully met by the not unreasonable plea of ignorance. Thus, in the end, Turkish towels and fancy carpets prove expensive luxuries, for which the plaudits of an obscure station are but a poor recompense.

Commissariat contracts should be undertaken by every jail within easy reach of large cantonments. After a very extensive experience under circumstances anything but favorable, we

consider such undertakings highly desirable, and unless the jail management is perfectly disgraceful, they ought to be the most successful of all jail speculations.

Thus far, though very cursorily indeed, have we alluded to the economical aspect of the question before us, and we must confess that it ought not be subordinate to any other. It has an essential importance of its own. It is a question of no small moment how the punishment of those who have offended against the laws of the country may be effected without any serious drain on the public means; while no fact is better established, according our own experience in the subject, than that the best managed jails are also comparatively the least expensive.

We are not willing to judge the conduct of prisoners by any higher moral code than what has generally obtained among their free brethren. Prisoners are not likely to underrate the profitable uses of dissimulation, and as a rule, it would be unsafe to judge of their convictions from their ordinary conduct in jail. 'We cannot,' says a writer in the *Cornhill*, 'draw any positive inference as to the reformation of a prisoner from his observation of a demeanour very properly urged upon him by his religious minister.' He has neither the scope nor the opportunity for the practice of any high virtue; beyond orderly behaviour and ordinary application to work, we have nothing to expect from him. The restraints imposed on his will are such as almost to deprive him of a choice of action, and therefore his highest merit is comparatively humble; since we have not the means to judge either the nature, or the extent of his reformation, we ought at least to exact from him implicit obedience to the rules for enforcing discipline. As long as a prisoner continues in jail he is subject to a course of discipline, the tendency of which is to reform his habits, but yet we cannot suppose that it is within the jail walls that we can test the results of his education. A prisoner may successfully assume orderly habits, or he may for a time follow the example of the well behaved, but no man with any knowledge of the world would venture to draw any positive inference from his life in jail, as to his probable course of life when emancipated from all restraint. Still we advocate strict attention to his conduct in jail: those who are not reformed must still be orderly and industrious.

We now come to the consideration of the important question of relapse into crime. It is to be regretted that with the means which we possess for ascertaining the mode of life pursued by discharged convicts, we should have failed to collect any reliable data, with the view of testing the working of our prison

system. Some men may reject the necessity of such inquiry, but granting, as we willingly do, that relapses test the reclaiming rather than the deterring character of punishment, yet it is highly desirable that we should know how far punishment alone is effective in checking crime.

Under the existing system the moral responsibility of relapses rests solely with the body of public detectives. Imprisonment can only deter when the chance of detection dominates over that of escape; for even when severity in jail discipline degenerates into simple cruelty, imprisonment is still ineffective as long as the hope of escape is justified by a corrupt executive. The responsibility of relapses under such circumstances rests entirely on those who are entrusted with the detection, and not the punishment of crime.

Under the system we have endeavoured to set forth, the moral responsibility of relapses into crime is justly divided between those who have to detect, and those who have to punish crime. While he is expiating his past misconduct, attempts are made to reform the criminal; he is armed against the dangerous fascinations of a lawless life not only by a just fear of its consequences, but by the stronger, though painfully acquired motive of of an abhorrence of crime itself. In the one case external influences alone act on his mind—the dread of the police, the disagreeables of a prison life, and the unpleasant vision of the cane and the triangle are strong checks against evil tendencies—but yet their united force as deterrents is only proportionate to the certainty with which crime may be detected. But the object of moral reform is to furnish the criminal with motives to avoid crime by awakening his mind to a just appreciation of his degraded position, to the nature and consequences of crime and by offering him the means of honest living. When a prisoner has so far successfully resisted the influence of evil associations as to shun crime for other reasons than a fear of its immediate consequences, the success of our attempts is complete, and prison life, with its moral opprobrium and severe discipline, will then be viewed not merely as the unpleasant consequence of a relapse.

It is not necessary that we should now enter into a discussion of the merits or defects of the system of which we have endeavoured to suggest some improvements. If our plan does not justify hopes of a brighter future, at least the principles it embodies have achieved unqualified success in England, Ireland and some countries of continental Europe. We have endeavoured to suggest correctives to the hardening influence of prison life, to hold out hopes of improvement in the guilty, and to indicate the means by which these hopes may be realized.

- ART. IV.—1. *Miscellanies: Prose and Verse.* By W. M. Thackeray. London: Bradbury & Evans. 1857.
2. *Vanity Fair. A Novel without a Hero.* By W. M. Thackeray. Bradbury & Evans. 1848.
3. *The History of Pendennis. His Fortunes and Misfortunes, His Friends and his Greatest Enemy.* By W. M. Thackeray. Bradbury & Evans. 1850.
4. *The Newcomes. Memoirs of a Most Respectable Family.* Edited by Arthur Pendennis. Bradbury & Evans. 1853.
5. *The History of Henry Esmond Esq. Written by Himself.* Smith, Elder & Co. 1852.
6. *The Virginians. A Tale of the Last Century.* By W. M. Thackeray. Bradbury & Evans. 1858.

WHAT connection has Mr. Thackeray with the Indian public, or what interest have they in him, more than in any other great author of the present time, are questions which will involuntarily rise to the lips of most readers who glance at the title of our article. Fortunately, Mr. Thackeray himself has saved us the trouble of a reply. In the story at the beginning of the last number of the Cornhill Magazine a man is described 'tottering up the steps of the ghaut,' having just parted with his child, whom he is despatching to England from India. Mr. Thackeray 'wrote this,'—to use his own pathetic words—'remembering in long, long distant days such a ghaut, or river-stair, at Calcutta; and a day when, down those steps, to a boat which was in waiting, came two children, whose mothers remained on the shore. One of those ladies was never to see her boy more; and he, too, is just dead in India of bronchitis.' The boys were 'first cousins;' had been 'little playmates and 'friends' from their birth, and the first house in London to which they were taken was the house of their aunt. Who were the boys? Their careers ran wide apart; their fates have been different; but the world has learnt to reverence both. The name of one is not unknown in the regions which lie between the Godavery and the Oxus,—that of the other, rings 'familiar as a

'household word' from the Danube to the Mississippi—Sir Richmond Shakespear and Mr. Thackeray. Who was the aunt? The mother of Mr. Ritchie of our Supreme Council. 'His Honor' was even then a gentleman of the long robe,' adds Mr. Thackeray, 'being in truth a baby in arms.' Mr. Thackeray was born in Calcutta in 1810. His father was in the Bengal Civil Service, and for many years held the office of Collector of Calcutta. A brother or cousin of his (a barrister and well known to us) edited the Bengal Herald. The earliest associations of his mind are connected with this country, and he has himself in a thousand places confessed that the dark and turbaned faces among whom he passed his infancy, and the landscapes with which that infancy was familiar—the palms, the rice fields, the tanks, and the dark blue sky still appear to him in dreams. Under these circumstances, we defy the most ingenious counsel, to make out a case to exempt him from our authority. Nay, personal considerations apart, there is enough of Eastern matter in his works to justify us in considering them as within the limits of our legitimate jurisdiction, and subjecting them to the ordeal of a critical examination. Was not Mr. Joseph Sedley,—Waterloo Sedley,—the Collector of Bogglywallah known to all of us? Has Mr. Thackeray himself not allowed that Mr. Charles Honeyman, the clergyman actor no longer preaches in Lady Whittlesea's chapel, but has gone out to India, and have we not often heard him preach? Cannot many of us recollect the noble Colonel Newcome, who was ruined by that unfortunate affair of the Bundelcund Bank? The regiment, which he commanded, went off during the mutinies, but there are people who still declare it would have remained staunch, had he been at the head of it. The devotion of his sepoy towards himself, personally, was certainly marvellous. Did not Dobbin the author of the "History of the Punjab" win his C. B. ship in India? And was it not at a Town Hall re-union that Glorvina first displayed that beautiful crimson silk dress, which Major O'Dowd thought would finish Dobbin? Is not Mr. Goff, who wears white wash-leather gloves, drinks fairly, likes a rubber, and has a story for after dinner, beginning 'Doctor, Ye racklact Sandy M'Lellan who joined us in the 'West Indies. Wal, sir,' still in command, or was till the other day, of one of our magnificent passenger ships? Was not Rummun Loll our own prince of merchants? Did he not go to England; was he not admitted into the first society there and reckoned a philosopher, and spoilt by the ladies, till the bubble of that wonderful Bank burst? Where did Major Gahagan perform his wonderful feats of valour? If Mr. Thackeray had

been born in England, he might still be called on to take his trial before us. Indian materials are interwoven in the fabric of all his works, and we have a right to examine if they have been handled with taste and discrimination.

Mr. Thackeray has had a long and hard struggle up the hill of fame. His first efforts in composition fell flat on the public. He piped but they did not dance. Nobody condescended to notice him. The reception was most salutary. A man, that suddenly and by a single effort starts up into popularity, rarely achieves much. Success turns his head. There have no doubt been glorious exceptions to this rule; but generally the writer that 'awakes one morning and finds himself famous' awakes another, and finds himself forgotten. It may be the fashion to praise him for a time, but fashions pass away, and critical rules endure. The scrutiny of severer tests than the mere whims of the hour is applied to his works, and under the touchstone their fictitious merits fade away. A man, on the contrary, who at the outset of his career is abused or, harder still, is unnoticed, if he have within him the germs of real genius, feels his nerves strung, and his powers developed under the treatment, and redoubles his exertions, heedless of the clamour or the silence around him. I know that it is in me, he says with Sheridan, and out it shall come. So he works on, and in the end secures a niche in the temple of immortality.

It is not to be imagined for a moment that because Mr. Thackeray's earlier works were neglected they gave no indications of his powers. They are sketches, generally, but drawn with a bold free hand, such as ought to have attracted the attention of discerning critics. In one instance, indeed, the attention of a critic of no mean powers was drawn to them. 'I have got hold of the two first numbers of the Hoggarty Diamond,' wrote John Sterling in 1841, 'and read them with extreme delight. What is there better in Fielding or Goldsmith? This man is a true genius, and with quiet and comfort might produce master-pieces, that would last as long as any we have, and delight millions of unborn readers.' High praise, but by no means undeserved, as thousands of people now allow. The Vicar of Wakefield is a master-piece of Goldsmith; once read it is never forgotten. But in simplicity it is equalled; in discrimination of character, in humour, in delicacy, in depth of pathos, it is greatly surpassed by this little novel of thirteen chapters, which the public so cruelly neglected for a time.

The secret of Thackeray's and Wordsworth's success is identical. It may appear paradoxical to say that the author who

lives most amongst men, and the author who dwells most amongst clouds—the most truthful delineator of the phases of society, and the most faithful painter of the phases of nature, owe their triumphs to the same cause. But nevertheless such is the fact. Both despise arbitrary and conventional rules as stumbling blocks in the path of faithful representation. Before the time of Wordsworth a poet might have written on a withered rose, on the boundless ocean, on the hardness of Chloe's heart, on Corydon's despair; but to write about a pedlar, a leech gatherer, a beggar woman, 'the common growth of mother earth,' would have been thought sacrilege. Before the time of Thackeray a novelist might have drawn a hero, brave and handsome, and conducted him, through three volumes of difficulty and intrigue, into the haven of a happy marriage—but to draw a hero with big hands and splay feet! The consequence was that poets and novelists alike walked on stilts. Poets sang of hearts and darts, and eyes and sighs, till nobody cared to hear their sentimental nonsense, and novelists wrote about the gallant horseman who rescued the young lady from the hands of brigands and then fell in love with her, till readers fell asleep. When the world was fairly tired of the charms of Amoret, and of the Zephyr that fanned her, as she lay asleep, there was heard deep voice saying

'The dragon's wing, the magic ring,
'I shall not covet for my dower;
'If I along life's lowly way,
'With sympathetic heart may stray,
'And with a soul of power.'

And critics listened perfectly bewildered. Some were scarcely able to form a judgment; others, accustomed to the beaten track, like Lord Jeffrey, reviled and scoffed; the most discerning like Wilson and Talfourd felt that a new era had dawned on English literature. Equally great was the astonishment, equally divided the opinions, and ultimately equally loud the applause when Mr. Thackeray propounded his doctrine and displayed society daguerretyped. No more heroes and heroines of the old, approved, faultless, procelain cast, we had real flesh and blood instead; men and women as we see them. It was a revolution as complete as that which Wordsworth had effected. One critic who admired 'good Dobbin' asked in his simplicity, 'but why should 'the major have clumsy feet Mr. Thackeray?' another critic enquired why Amelia so gentle and affectionate should be also so insipid? Years passed before Mr. Thackeray could get people perfectly to understand his lofty theory, or unqualifiedly to admire the skill with which he worked it out.

No poet can live in the hearts of the men of distant generations unless he be true to his high calling. His life as well as his works must be poetry. The accounts of Shakespeare which have come down to us are too vague for us to form a decided opinion about him; but we may rest assured that the mind which conceived a Juliet, an Imogen, and a Desdemona, received no taint from any atmosphere by which it was surrounded. The glimpses that we catch of his life from occasional passages in his own works never dispel, but always realize our conceptions; witness those pathetic lines on his player life so often quoted by Elia.

Hence is it that my name receives a brand,
And even hence my nature is subdued,
To what it works in, like the dyer's hand.

Milton's life was certainly a poem, as symmetrical and sublime as the *Paradise Lost*. Wordsworth's poetry is the reflection of his life in still waters.

If these doctrines hold good with regard to the poet, they must hold equally good with regard to the novelist. Has not the novel been correctly described as the prose epic? Mr. Thackeray's life is perfectly consistent with his works. In both there is the same 'wholesome hatred of meanness and knavery,' 'the same cheerfulness,' the same 'vast sympathy' and the same love of human kind. It could not be otherwise. If as a man he were different, could he hold the same place in the affections of his vast congregations? Could he be the profound writer which he is universally admitted to be? Out of the fulness of the heart the lips speak. A hypocrite cannot long practise his hypocrisy successfully. An actor must sometimes inadvertently betray himself.

To what end or with what object are these observations made? They ought to lead we think to most practical and most useful results. What hosts of followers have there risen up both of Wordsworth and Thackeray! Suppose all these persons were to believe in the justice of our remarks and to act accordingly. Should we not then have a larger number of good men and women in the world? There might not be a larger number of good writers, for the converse of our proposition will not hold; but will not enough have been achieved, if all these poets and novelists attempted to illustrate their works in their lives. In the failure of almost all the imitators and the success of only a very few, we see perhaps the best proofs of the soundness of our doctrine. Men will try to write like Wordsworth and Thackeray, and yet live like Byron and Maginn—the inevitable result is failure. Of

the echoes that have succeeded, and that bear any resemblance however remote to the melody of the instrument in the master hand, not one as far as we know proceeds from a person of life discordant with his master's principles. Numerous instances might be given, but two shall suffice. Trench may stand forward as an example of the followers of Wordsworth, Miss Evans better known as George Eliot of Thackeray—worthy disciples both.

Extracts from any works but those of Mr. Thackeray would be out of place in our article, but we cannot resist the temptation of selecting one passage from each of these writers, to show that the instruments of neither give an uncertain sound. Published anonymously, one might easily mistake the poetry for Wordsworth's and the prose for Thackeray's.

Sonnet.—Returning Home.

To leave unseen so many a glorious sight,
To leave so many lands unvisited,
To leave so many worthiest books unread,
Unrealised so many visions bright;—
Oh! wretched yet inevitable spite
Of our short span; and we must yield our breath,
And wrap us in the lazy coil of death,
So much remaining of unproved delight.
But hush, my soul, and vain regrets be stilled;
Find rest in Him who is the complement
Of whatsoe'er transcends your mortal doom
Of broken hope and frustrated intent;
In the clear vision and aspect of whom
All wishes and all longings are fulfilled.

'It is for this rare, precious quality of truthfulness that I delight in many Dutch paintings, which lofty-minded people despise. I find a source of delicious sympathy in these faithful pictures of a monotonous homely existence, which has been the fate of so many more among my fellow mortals than a life of pomp or of absolute indigence, of tragic suffering or of world-stirring actions. I turn without shrinking, from cloud-borne angels, from prophets, sibyls, and heroic warriors, to an old woman bending over her flower pot, or eating her solitary dinner, while the noonday light, softened perhaps by a screen of leaves, falls on her mob-cap, and just touches the rim of her spinning wheel, and her stone jug, and all those cheap common things which are the precious necessities of life to her;—or I turn to that village wedding, kept between four brown walls, where an awkward bridegroom opens the dance with a high shouldered, broad-faced bride, while elderly and middle-aged friends look on, with very irregular noses and lips and probably with quart pots in their hands, but with an expression of unmistakeable contentment and good will. 'Foh' says my idealistic friend, what vulgar details. What good is there in taking all these pains to give an exact likeness of old women and clowns? What a low phase of life!—what clumsy, ugly people!'

'But, bless us, things may be loveable that are not altogether handsome, I hope? I am not at all sure that the majority of the human race have not

been ugly, and even among those 'lords of their kind,' the British, squat figures, ill-shapen nostrils, and dingy complexions are not startling exceptions. Yet there is a great deal of family love amongst us. I have a friend or two whose class of features is such that the Apollo curl on the summit of their brows would be decidedly trying; yet to my certain knowledge tender hearts have beaten for them, and their miniatures—flattering, but still not lovely—are kissed in secret by motherly lips. I have seen many an excellent matron, who could never in her best days have been handsome, and yet she had a packet of yellow love letters in a private drawer, and sweet children showered kisses on her sallow cheeks. And I believe there have been plenty of young heroes, of middle stature and feeble beards, who have felt quite sure they could never love anything more insignificant than a Diana, and yet have found themselves in middle life happily settled with a wife who waddles. Yes! thank God, human feeling is like the mighty rivers that bless the earth: it does not wait for beauty—it flows with resistless force and brings beauty with it.

'All honour and reverence to the divine beauty of form! Let us cultivate it to the utmost in men, women, and children—in our gardens and in our houses. But let us love that other beauty too which lies in no secret of proportion, but in the secret of deep human sympathy. Paint us an angel if you can, with a floating violet robe, and a face paled by the celestial light; paint us yet oftener a Madonna, turning her mild face upward and opening her arms to welcome the divine glory; but do not impose on us any æsthetic rules, which shall banish from the region of Art those old women scraping carrots with their workworn hands, those heavy clowns taking holiday in a dingy pot-house, those rounded backs and stupid weather beaten faces that have bent over the spade, and done the rough work of the world—those homes with their tin pans, their brown pitchers, their rough curs, and their clusters of onions. In this world there are so many of these common coarse people, who have no picturesque sentimental wretchedness! It is so needful we should remember their existence, else we may happen to leave them quite out of our religion and philosophy, and frame lofty theories which only fit a world of extremes. Therefore, let Art always remind us of them; therefore let us always have men ready to give the loving pains of a life to the faithful representing of common place things—men who see beauty in these common place things, and delight in showing how kindly the light of heaven falls on them. There are few prophets in the world; few sublimely beautiful women; few heroes. I can't afford to give all my love and reverence to such rarities. I want a great deal of those feelings for my every day fellow men, especially for the few in the foreground of the great multitude, whose faces I know, whose hands I touch, for whom I have to make way with kindly courtesy. Neither are picturesque lazzaroni or romantic criminals half so frequent as your common labourer, who gets his own bread, and eats it vulgarly but creditably with his own pocket-knife. It is more needful that I should have a fibre of sympathy connecting me with that vulgar citizen who weighs out my sugar in a vilely assorted cravat and waistcoat, than with the handsomest rascal in red scarf and green feathers; more needful that my heart should swell with loving admiration at some trait of gentle goodness in the faulty people who sit at the same hearth with me, or in the clergyman of my own parish, who is perhaps rather too corpulent and in other respects is not an Oberlin or a Tillotson, than at the deeds of heroes whom I shall never know except by hearsay, or at the sublimest abstract of all clerical graces that was ever conceived by an able novelist, Adam Bede, by George Eliot—vol. II.

We consider the above—and we believe few readers will disagree with us—among the best expositions of Mr. Thackeray's principles of art, conveyed in his own forcible and peculiar language.

It was a fundamental rule with nearly all novelists from Richardson to Scott and Dickens, to let the actors in their pieces speak for themselves. When the show was going on, it was not for the authors to thrust in their heads among the puppets, and point out the beauties of one or the failings of another. Such a proceeding, it was believed, would but hurt the reader's faith, and thus destroy the effect of the representation. Mr. Thackeray's doctrine is precisely the reverse. He perpetually stops in his narrative to comment, and his commentaries are decidedly the best part of his novels. So large are these digressions, that a clever critic describes his novels, as only elaborate discourses on human nature, illustrated by examples. There is, with one signal exception, little plot in his narratives. The ordinary expedients by which most other writers of fiction stimulate the flagging attention of readers find no favor with him. There are no surprises. A blasé reader of novels himself, he knows it is useless to hem Alexis in an intricate web, from which he must be extricated again, that he may reach the goal of connubial felicity; or to bind Rosamunda ruthlessly to the stake, from which Rinaldo must inevitably rescue her. To a new reader, like the boy he himself so graphically describes in the *Cornhill Magazine*, such exploded tricks of the novelist may have charms, but even he must soon tire of them. Mr. Thackeray knows full well that after a time 'the boy will cease to feel surprise when the stranger 'turns out to be the rightful earl, or when the old waterman, 'throwing off his beggarly gabardine, shows his stars and the collars of his various orders, and clasping Antonia to his bosom proves 'himself to be the prince, her long lost father.' No man understands better than he, that men, and especially men of reading and intelligence, must have other sort of mental nourishment. The result is that like a week-day preacher, he breaks off the thread of his narrative as often as he finds occasion to philosophize. The strong sense, the keen powers of observation, the generous nature, and the reverence for things not of the earth, which characterize these wonderful episodes, have earned for Mr. Thackeray the gratitude not only of the present but of all future generations. Sometimes he addresses his audiences as from a pulpit; at others he seems to soliloquise; now he suggests food for thought; anon he tears aside the flimsy devices with which men hide their own meanness from themselves; here he propounds that cant and sectarian bigotry are not religion; and there that a want of religion is

not philosophy. Lifting up his squeaking puppet with a smile he proceeds to show his reader the intricate mechanism of its heart. How fair that heart appears at first sight to the attentive throng! but the delicate knife removes the thin layer that covers it to delude, and lays open its black spots and angularities, till every person present feels intuitively forced to subject his own heart to the same sort of examination.

In arranging Mr. Thackeray's larger works according to the order of merit we are disposed to give the highest praise to that which is the least popular. Our classification would stand thus, *Esmond*, then *Pendennis* and the *Newcomes*,—recording as in an autobiography, the one the author's literary, the other his artistic experiences,—then *Vanity Fair*—and last his *Virginians*.

We have given the highest place to *Esmond* after repeated and deliberate perusal, and whatever the public may say, we shall be surprised if Mr. Thackeray himself does not concur in our decision. *Esmond* seems to us the work which he has most maturely considered and most carefully written. There are no traces of haste in it, on the contrary there are evidences every where, even in the foot-notes, of the most attentive study. While all his other works have been published in detached chapters monthly, *Esmond* sprung forth entire. There are some disadvantages inherent to the system of these monthly publications, from which *Esmond* is consequently exempt. Thus for instance, it is necessary in the monthly publications to spice each separate part, or to make every four chapters readable almost by themselves; it may be necessary with a view to attain this object to spin out some portions of the story and to curtail others; and worse than all it may be necessary for the sake of temporary effect to yield to the temptation of deviating from the original outline of the work. But it is not only because *Esmond* was published entire that it is superior to Mr. Thackeray's other works. It is superior because he appears to have put forth his whole strength in it. In other works that strength is put forth occasionally, but here it is put forth continuously. There are passages in his other works excelling any passage in *Esmond*. The death of Colonel Newcome, for instance, is better not only than anything in *Esmond*, but perhaps than anything in the whole range of modern fiction. What then? Works are not to be judged by isolated passages. As a whole, *Esmond* is the most finished specimen of art. The background, the foreground, the groups, are all in keeping with each other in the picture, and some of the faces are such as Shakespeare himself might have been proud to have drawn.

What a portrait for instance is that of Rachel Esmond. How loving she looks out of the canvas. For our part, that lady never appears, but we feel our hearts beat like the schoolboy's in the Roundabout papers. Let the reader call to mind the very first chapter in the book in which she is introduced—her golden hair shining in the gold of the sun; her complexion of a dazzling bloom; her lips smiling; the kindness with which she takes the friendless boy's hand; the blush with which she drops it, when Mrs. Worksop looks significantly towards the late lord's picture; the look of 'infinite pity and tenderness' with which she takes that hand again, 'placing her other fair hand on his head' when she finds him on her return standing exactly on the same spot, and with his hand as it had fallen, when he dropped it on his black coat. 'Le pauvre enfant, il n'a que nous.' Let him call to mind the many vivid scenes in which she discovers that with her beauty, her reign had ended and the days of her love were over; how the first shock came on her; how then 'as a 'merchant on change, *indocilis pauperiem pati*, having lost his 'thousands, embarks a few guineas upon the next ship, she laid 'out her all upon her children, indulging them beyond all measure, 'as was inevitable with one of her kindness of disposition; giving 'all her thoughts to their welfare, learning, so that she might 'teach them, and improving her own many natural gifts and 'feminine accomplishments that she might impart them to her 'young ones.' Let him call to mind the awful prison scene at the commencement of the second volume after the death of the Viscount Esmond;—the ghastly white face, the eyes, ordinarily so sweet and tender, fixed on Harry Esmond with such a tragic glance of woe and anger, as caused the youth, unaccustomed to unkindness from her, to avert his own glances from her face, the wild language, 'Where is my husband? Give me back my 'husband, Henry. Why did you stand by and see him murdered?' Let him recal to mind the day in which Harry Esmond returns from exile and is reconciled to the family. Above all, let him call to mind that deeply pathetic scene in which Harry Esmond filled with remorse for the wearisome pain he had been inflicting on her by the endless recital of his passion for Beatrix, runs upstairs and finds her where he had left her, in the embrasure of the window, looking over the fields with tears in her eyes, and in her hands the stalk of one of the flowers, a pink that she had torn to pieces, and then let him, if he dare, join in the Edinburgh Reviewer's condemnation of the portrait, as that of a wife of 'strong feelings,' irritable, suspicious 'temper,' 'quick sensibility' and 'undiscriminating, unrelenting

'jealousy.' We are not ashamed to confess that we admire the picture so much that we consider any touch either to shade the peculiar faults, or to exaggerate the beauties would be a mistake. It is worthy as it stands to take a place in the loveliest female gallery, even side by side

With the gentle lady married to the Moor,
And heavenly Una with her milk-white lamb.

The critic, who condemns Rachel Esmond as a character not to be held up to admiration, must be ignorant of the first principles of criticism. 'Strong feelings' and why not strong feelings? Can any woman who has not *strong feelings* in some matters be worthy of love? 'Irritable, suspicious temper'—never;—'Jealousy'?—on this point let us hear Mr. Thackeray. The lady has passed her great trial. Viscount Esmond has commenced haunting taverns, and makes no secret of a fair Rosamond.

'She had oldened in that time, as people do who suffer silently great mental pain, and learned much that she had never suspected before. She was taught by that bitter teacher Misfortune. A child, the mother of other children, but two years back her lord was a god to her; his words her law; his smile her sunshine; his lazy commonplaces listened to eagerly, as if they were words of wisdom; all his wishes and freaks obeyed with a servile devotion. She had been my lord's chief slave and blind worshipper. Some women bear farther than this, and submit not only to neglect but to unfaithfulness too; but here this lady's allegiance had failed her. Her spirit rebelled and disowned any more obedience.' Page 202, vol 1.

When we condemn strong feelings in certain matters we ought to remember that Perfection is "wrathful" on account of its bitter hatred to sin. There is a point where it is weakness, or worse, not to have strong feelings. The critic who now blames Mr. Thackeray for drawing a heroine who is not perfectly meek and submissive, would have been the first to charge him with drawing a heroine perfectly insipid, if he had made the attempt. Witness the same critic's remarks on Amelia Sedley. 'She is'—according to him—'amiable by instinct,' 'It is her nature to love' 'all those with whom she comes in contact just as it is the nature' 'of a spaniel to caress every visitor. But her love being founded on propinquity, not on judgement is, like that of the spaniel, 'indiscriminating.'

After all nature is the true model, and to copy her faithfully is the highest art. In nature it is vain to look for a perfect specimen of humanity. Since the creation there has been but one perfect Man. To give Rachel Esmond an occasional failing, if failing it be, and that on the right side, is therefore only to comply with the demands of the highest art. It is to make the picture all the more life-like.

With such opinions as the critic in the *Edinburgh Review* seems to entertain, we should not be surprised to learn that he had positively fainted away when he came to the following passage regarding the appearance of Lady Esmond after her recovery from small pox.

'It was as if a coarse hand had rubbed off the delicate tints of that sweet picture and brought it, as one has seen unskilful painting cleaners do, to the dead colour. Also, it must be owned, that for a year or two after the malady her ladyship's nose was swollen and redder.'

To us the passage does not seem to be even one of those unnecessarily rough strokes, with which Wordsworth used to aggravate his critics. It is only a bit of playfulness. Harry Esmond it must be remembered is supposed to be the author of the Book, and he writes it under the eyes of his wife Lady Esmond in that remote transatlantic region to which they emigrated in the decline of life.

Another charge, much more serious, made against Lady Esmond, is by Charlotte Brontë the authoress of *Jane Eyre*. Miss Brontë was not one of those who love ordinarily to decry Mr. Thackeray as a cynic and a pourtrayer of the dark side of humanity. In the preface to *Jane Eyre* she compares him to the truth loving prophet whom Zedekiah the son of Chenaanah struck on the cheek for not speaking what would please the king. Any remark in disparagement of Mr. Thackeray from Miss Brontë is therefore entitled to weight, and in this case it is entitled to the more weight because the observation does not appear in an essay dressed for the public, but in a casual letter which is published in her life by Mrs. Gaskell. She observes 'as usual he is 'unjust to women; quite unjust. There is hardly any punishment 'he does not deserve for making Lady Castlewood peep through a 'keyhole and listen at a door.'

The passage in *Esmond*, to which reference is made, stands as follows:—

'And so it is, and for his rule over his family, and for his conduct to wife and children, subjects over whom his power is monarchical, any one who watches the world must think with trembling sometimes of the account which many a man will have to render. For in our society there's no law to control the King of the Fireside. He is master of property, happiness, life almost. He is free to punish, to make happy or unhappy, to ruin or to torture. He may kill a wife gradually, and be no more questioned than the Grand Seignior, who drowns a slave at midnight. He may make slaves and hypocrites of his children; or friends and freemen; or drive them into revolt and enmity against the natural law of love. I have heard politicians and coffeehouse wiseacres talking over the newspaper, and railing at the tyranny of the French King, and the Emperor, and wondered how these (who are monarchs, too, in their way,) govern their own dominions at home,

where each man rules absolute? When the annals of each little reign are shown to the Supreme Master, under whom we hold sovereignty, histories will be laid bare of household tyrants as cruel as Amurath, as savage as Nero and as reckless and dissolute as Charles.'

'If Harry Esmond's patron erred, 'twas in the latter way, from a disposition rather self-indulgent than cruel: and he might have been brought back to much better feelings, had time been given to him to bring his repentance to a lasting reform.'

'As my lord and his friend Lord Mohun were such close companions, Mistress Beatrix chose to be jealous of the latter; and the two gentlemen often entertained each other by laughing, in their rude boisterous way, at the child's freaks of anger and show of dislike. "When thou art old enough, thou shalt marry Lord Mohun," Beatrix's father would say: on which the girl would pout and say, "I would rather marry Tom Tusher." And because the Lord Mohun always showed an extreme gallantry to my Lady Castlewood whom he professed to admire devotedly, one day, in answer to this old joke of her father's, Beatrix said, "I think my lord would rather marry mamma than marry me; and is waiting till you die to ask her."

'The words were said lightly and pertly by the girl one night before supper, as the family party were assembled near the great fire. The two lords, who were at cards, both gave a start; my lady turned as red as scarlet, and bade Mistress Beatrix go to her own chamber: whereupon the girl, putting on, as her wont was, the most innocent air, said, "I am sure I meant no wrong; I am sure mamma talks a great deal more to Harry Esmond than she does to papa, and she cried when Harry went away, and she never does when papa goes away; and last night she talked to Lord Mohun for ever so long, and sent us out of the room, and cried when we came back and * * * * *"

"D—n.!" cried out my Lord Castlewood, out of all patience. "Go out of the room, you little viper;" and he started up and flung down his cards. "Ask Lord Mohun what I said to him, Francis," her ladyship said, rising up with a scared face, but yet with a great and touching dignity and candour in her look and voice. "Come away with me Beatrix." Beatrix sprang up too: she was in tears now.'

"Dearest mamma, what have I done?" She asked. "Sure I meant no harm." And she clung to her mother, and the pair went out sobbing together.'

"I will tell you what your wife said to me, Frank,"—my Lord Mohun cried—"Parson Harry may hear it; and as I hope for heaven, every word I say is true. Last night, with tears in her eyes, your wife implored me to play no more with you at dice or at cards, and you know best whether what she asked was not for your good."

"Of course it was, Mohun,"—says my Lord in a dry hard voice. "Of course you are a model of a man: and the world knows what a saint you are.' My Lord Mohun was separated from his wife, and had had many affairs of honour: of which women as usual had been the cause.

"I am no Saint, though your wife is—and I can answer for my actions as other people must for their words,"—said my Lord Mohun.

"By G—, my lord, you shall," cried the other starting up.

"We have another little account to settle first, my lord" says Lord Mohun. Whereupon Harry Esmond filled with alarm for the consequences to which this disastrous dispute might lead, broke out into the most vehement expostulations with his patron and his adversary. "Gracious Heavens!" he said, "my lord, are you going to draw a sword upon your friend in your own house? Can you doubt the honour of a lady who is as pure as Heaven, and would die a

thousand times rather than do you a wrong? Are the idle words of a jealous child to set friends at variance? Has not my mistress, as much as she dared do, besought your lordship, as the truth must be told, to break your intimacy with my Lord Mohun; and to give up the habit which may bring ruin on your family? But for my Lord Mohun's illness had he not left you?"

"Faith, Frank, a man with a gouty toe can't run after other men's wives," broke out my Lord Mohun, who indeed was in that way, and with a laugh and look at his swathed limb so frank and comical, that the other dashing his fist across his forehead was caught by that infectious good humour, and said with his oath, "Harry, I believe thee," and so this quarrel was over, and the two gentlemen, at swords drawn but just now, dropped their points, and shook hands.

'*Beati pacifici*. "Go bring my lady back," said Harry's patron. Esmond went away only too glad to be the bearer of such good news. He found her at the door; she had been listening there, but went back as he came. She took both his hands, hers were marble cold. She seemed as if she would fall on his shoulder. "Thank you, and God bless you, my dear brother Harry," she said. She kissed his hand, Esmond felt her tears upon it: and leading her into the room, and up to my lord, the Lord Castlewood with an outbreak of feeling and affection such as he had not exhibited for many a long day, took his wife to his heart, and bent over and kissed her and asked her pardon.'—Vol. I p. 288—293.

Nothing could be easier for Mr. Thackeray than to pass his pen through the words—'she had been listening there but went 'back as he came,'—but we ask whether human nature is not more faithfully described in the passage in its present state. How powerful, considering all things, the temptation here to listen. It was scarcely a voluntary act; she could scarcely have known what she was doing. Wilkie Collins is as great a name as Charlotte Brontë in the region of fiction. Listen to the following from the *Woman in White*.

'I had turned to go back to my own room for a minute or two; but the sound of Laura's name, on the lips of a stranger, stopped me instantly. I dare say it was very wrong and very discreditable to listen, but where is the woman in the whole range of our sex, who can regulate her actions by the abstract principles of honour, when those principles point one way, and when her affections, and the interest which grow out of them point the other?

I listened; and, under similar circumstances I would listen again—yes! with my ear at the keyhole, if I could not possibly manage it in any other way.

The Woman in White, vol. 2, p. 51 and 52.

As a historical novelist Mr. Thackeray does not rank high. His portraits of departed great men can never bear a comparison with Sir Walter Scott's. Washington and Wolfe in his *Virginians* are average specimens of his skill. They are fair, for a man of Mr. Thackeray's genius cannot positively fail in anything he undertakes, but are they half as good as Sir Walter Scott's James in the *Fortunes of Nigel*, or his Louis in *Quentin Durward*? Mr. Thackeray's Johnson in his *Virginians* is a sprawling caricature, no more like the Johnson of Boswell, than

like Hercules. In Esmond he has done far better than ordinarily. Two portraits one of the Pretender, and another of Dick Steele are done to the life. Sir Walter might have been proud to own both. In fact he tried his hand on one of them—the Pretender, in his Redgauntlet, but in our opinion, with less success than Thackeray. The Pretender in Esmond with his French manners, his frivolous pursuits, and his occasional display of right royal qualities, is more like the real Pretender than Sir Walter Scott's melancholy and dignified figure. Dick Steele as the soldier in Captain Westbury's troop explaining to little page Esmond that he was no common soldier, that he was of one of the most ancient families in the Empire, and that he had received his education at a famous school and a famous university;—Dick Steele discussing religion 'Tis not the dying for a faith that's so hard Master Harry—every man of every nation has done that—tis the living up to 'it that is difficult, as I know to my cost;—Dick Steele sympathising with the little fellow on his father's death, and giving him an account of his own first sensation of grief in the very words of that immortal paper in the Spectator—'I remember I went 'into the room where his body lay, and my mother sate 'weeping beside it. I had my battledore in my hand and 'fell a beating the coffin, and calling papa, on which my 'mother caught me in her arms, and told me in a flood 'of tears, papa could not hear me, and would play with 'me no more,—for they were going to put him underground 'whence he could never come to us again';—Dick Steele stopping the ribald stories of the other troopers before the child with the maxim *maxima debetur pueris reverentia*; and afterwards confiding to him his love for a vintner's daughter, near to the Toll Bridge, Westminster, whom Dick addressed as Saccharissa in many verses of his composition, and without whom he said it would be impossible that he could continue to live;—Dick Steele, in his cups, coaxing and speaking in that maudlin manner, which punch and claret produce, to his beloved Prue and beseeching her to remember that there was a 'distiwisht officer ithe rex roob who would overhear her';—Dick Steele in Joseph Addison's humble room reading the manuscript of the Battle of Blenheim and clapping his hands in undisguised admiration,—Dick Steele in all times and places throughout the book, is Dick Steele himself. It is one of the most vivid and accurate portraits in the whole range of our literature. Nor are the rough pencil outlines of Addison and Swift unworthy to take their places by its side. Addison receiving his friends in a lodging, up two pair of stairs, with a sixpenny dinner from the adjoining cookshop, and talking of fortune with a

calm smile 'I puff the prostitute away, there is no hardship in 'poverty Esmond that is not bearable, no hardship even in honest 'dependence that an honest man may not put up with. I came 'out of the lap of Alma Mater puffed up with her praises of me, 'and thinking to make a figure in the world with the parts and 'learning which had got me no small name in our college. The 'world is the ocean, and Isis and Charwell are but little drops of 'which the sea takes no account. My reputation ended a mile 'beyond Maudlin tower; no one took note of me, and I learned this 'at least, to bear up against evil fortune with a cheerful heart.' Swift in the printer's shop bullying the supposed printer's man, and frightening the poor little imp in his lap with his rudeness; or amongst the great giving himself the airs of an assumed independence;—both Addison and Swift are in harmony with the reader's preconceived notions, and worthy of Mr. Thackeray.

Pendennis and the Newcomes come next to Esmond in our classification, but of the two though we like the Newcomes best, let us give Pendennis precedence here, as first in the order of publication.

It is the business of critics to spy out faults, and Pendennis has not escaped censure at the hands of its reviewers. It has been urged that the character of Arthur Pendennis has not been drawn well; that it is doubtful 'whether he is worthy of 'our love and respect, or of our dislike and contempt.' Mr. Thackeray could not, it has been stated, 'have formed a very 'definite notion on the subject himself,' and would probably be as much puzzled as any reader to reconcile his apparent contradictions, and explain how a man can be an 'honest, affectionate fellow,' and a 'supercilious dandy'; selfish and generous; spoilt by prosperity and improved by it; with natural parts, but purposeless and idle; young, but blasé; not without principle, but not proof also against temptation.

The reply to these arguments is simple. Such is life, such are men,—so uncertain so inconsistent. According to his own account Mr. Thackeray has attempted to paint not a perfect hero, but a brother and a man. He has achieved this—Pendennis is a brother,—we feel with and for him, and in spite of his weaknesses we love him as much as Warrington loves him;—he is also a man—sorely tempted, he runs away, but he does not yield. There is nothing in him that we dislike. As to his being a dandy, we entirely concur with Mr. Brown;—'There is nothing disagreeable to us in the notion of a dandy, any more than there is in the 'idea of a peacock or a camel-leopard, or a prodigious gaudy tulip, 'or an astonishingly bright brocade. There are all sorts of animals, plants, and stuffs in nature, from peacocks to tomtits, and

‘from cloth of gold to corduroy, whereof the variety is assuredly intended by nature, and certainly adds to the zest of life.’ On the other hand we see much in him to esteem. Artist of his own portrait, Pendennis could not, it must also be remembered, have laid on brighter colors without exposing himself to a charge of egotism.

It has also been urged that Blanche Amory is a repetition of Becky Sharp; to this we demur. The ladies are quite distinct, as distinct as Rosalind and Desdemona, or any two of Shakespeare’s heroines. Neither can be loved, it is true; but if for such a reason they are to be considered identical then;—but why argue on a point so plain? Here is Blanche Amory’s portrait.

‘Blanche was fair, and like a sylph. She had fair hair, with green reflexions in it. But she had dark eyebrows. She had long black eye-lashes, which veiled beautiful brown eyes. She had such a slim waist, that it was a wonder to behold; and such slim little feet, that you would have thought the grass would hardly bend under them. Her lips were of the colour of faint rose-buds, and her voice warbled limpidly over a set of the sweetest little pearly teeth ever seen. She showed them very often, for they were very pretty. She was very good natured, and a smile not only showed her teeth wonderfully, but likewise exhibited two lovely little pink dimples, that nestled in either cheek.

‘She showed Laura her drawings, which the other thought charming. She played her some of her waltzes with a rapid and brilliant finger, and Laura was still more charmed. And she then read her some poems, in French and English likewise of her own composition, and which she kept locked in her own book—her own dear little book—it was bound in blue velvet, with a gilt lock, and on it was printed in gold the title of “Mes Larmes.” * * * *

It appeared from these poems that this young creature had indeed suffered prodigiously. She was familiar with the idea of suicide. Death she repeatedly longed for. A faded rose inspired her with such grief that you would have thought she must die in pain of it. It was a wonder how a young creature, who had had a snug home, or been at a comfortable boarding school, and had no outward grief or hardship to complain of, should have suffered so much—should have found the means of getting at such an ocean of despair and passion (as a runaway boy who *will* get to sea), and having embarked on it, should survive it. What a talent she must have had for weeping to be able to pour out so many of Mes Larmes.

They were not particularly briny, Miss Blanche’s tears, that is the truth; but Pen, who read her verses, thought them very well for a lady—and wrote some verses himself for her. His were very violent and passionate, very hot, sweet, and strong: and he not only wrote verses—but—oh the villain! oh the deceiver! he altered and adapted former poems in his possession, and which had been composed for a certain Miss Emily Fotheringay, for the use and to the Christian name of Miss Blanche Amory.’

Warrington’s story has been condemned in some quarters. It is related to an anxious circle a few minutes before the death of Helen Pendennis. We confess it disappoints, probably because every reader’s expectation had previously been raised very

high about it. The plot has never been Mr. Thackeray's vantage ground, still Warrington's story cannot be said to be worse than the ordinary run of digressive stories even in our best novelists, Scott and Dickens.

Another charge brought against Mr. Thackeray is, that in *Pendennis* he has given us a ridiculous caricature of literary men and literary society in order to ingratiate himself with titled votaries of fashion. Such an accusation of flunkeyism or snob-bishness could only have emanated from a snob, and can be believed only by snobs. It would be idle to waste time in refuting an assertion so absurd, but as some critics who, while they feel as indignant as ourselves at the motive imputed, cannot wholly exculpate him from the crime which they attribute to a diseased habit of endeavouring to say something new and startling, and as Mr. Thackeray himself has thought it worth his while to repel the charge in a newspaper article, it may not be wholly useless or uninteresting to enquire how far it is just.

In the first place, we think, that the charge if made at all should have been made before, as nothing, which Mr. Thackeray says in *Pendennis* against literary men as a class, can be more bitter than what he said in his previous publications in the *Snob Papers*, and the *Jeames' Diary*, and the articles in '*Fraser*' such as the *Ravenswing*. Do any of those people who pretend to be startled and scandalised by the portraits of Captain Shandon, and Bungay, and Bacon, and Wagg, pretend not to have made the previous acquaintance of people of similar character, all introduced to them by Mr. Thackeray? Can any person pretend not to have heard of the Editor in *Jeames' Diary* who one day attacked the Honorable Mr. Deuceace on account of his doing Mr. Dawkins out of £ 5,000 at play, and the next day threatened in a notice to correspondents to expose all Mr. Deuceace's career of roguery, and the day after humbly apologized for 'a paragraph which was inadvertently admitted, most unjustly assailing the character of a gentleman of high birth and talents, the son of the exemplary Earl of C-r-b-s'? Who does not know the Editors round the most respectable table of Sir George Thrum, the man whom the wisest and best of kings, his late majesty George III 'delighted to honor,' Mr. Bludyer of the *Tomahawk*, Mr. Squinney of the *Flowers of Fashion*, Mr. Desmond Mulligan 'our well informed correspondent' of that famous *Munster paper*, the *Green Flag of Skibberreen*. That little conversation between Mr. Woolsey the tailor, and Bludyer—'Then Sir—I'll—I'll 'thank you to pay my little bill,' and the noble leader which subsequently appeared in the *Tomahawk*, are they to be forgotten?

And then, that comfortable assurance in capitals in the Book of Snobs—‘the fact is that in the Literary Profession THERE ARE NO SNOBS. Look round at the whole body of British men of letters, and I defy you to point out among them a single instance of vulgarity or envy, or assumption.’ If such camels were swallowed before, and glibly swallowed by Mr. Thackeray’s antagonists, why should they strain at the gnats in Pendennis?

A depicter of life and manners is not bound to represent favorable specimens of a class only, said Mr. Thackeray, when put on his defence. He might have said more; not bound certainly; and one that would deem himself so bound, would be unworthy of his calling. A depicter of life and manners is bound to depict with truth, and to depict with truth it is necessary to give all sorts of specimens, good, bad, and indifferent. The most rancorous of his antagonists will probably turn round at this remark, and while admitting that he has given us plenty of bad and indifferent examples, will deny he has given us any good—‘they are all bad,’ and here we have no hesitation in joining issue with them. Can any character be nobler than that of bluff George Warrington. ‘Finucane has no longer charge of the paper—Warrington has come back; I should know the crack of that fellow’s whip amongst a thousand’—said Captain Shandon tossing the Pall Mall Gazette to his wife in their lodgings at Bologne-sur-mer;—‘he lays his cuts neat, straight down the back, and drawing blood every line’. At which dreadful image Mrs. Shandon, who had always known Mr. Warrington as most affectionate and kind to her children exclaims ‘Law!’ What manliness, what self-denial, what benevolence, what love, lie at the core of that apparently rough heart!

It is not improbable, too, that those who bring forward the accusation forget that the tone of the Press in England has improved very considerably within our recollection. Thirty years ago, the English press was nearly as scurrilous as the worst portion of the press of America of the present day. In Pendennis Mr. Thackeray is speaking of thirty years ago, when annuals were in fashion. Pen, you may remember, wrote for one of them. The most respectable periodicals of that day, Blackwood and the Quarterly systematically indulged in savage personalities such as a fourth rate periodical would now scorn to utter on the utmost provocation. It was not without justice, or without absolute need, that Mr. Thackeray’s lash was applied, and it has been ‘laid neat, straight down the back, and drawing blood every line.’

Let us have truth above all things. If a literary man, the

Editor of the Pall Mall Gazette and the crack writer for Bungay's Magazine as well, have depraved habits and companions, shall we gloss the thing over, and say the habits are good, and the companions virtuous? If he run into debt, tiddle in low taverns, swear, or cheat, must we applaud? No, Let Captain Shandon's weaknesses be exposed were he ten times as brilliant and clever, that others may take warning from him. Much of the misery of literary men has been occasioned by a mistaken belief, that laws which apply to ordinary mortals, and cannot with impunity be infringed by such, are inapplicable to themselves. It is therefore absolutely necessary to impress upon the class that they are as liable as any of us to become contemptible if they are reckless, wild, or dissolute. It is not honorable for any person, be he Captain Shandon, or Doctor Maginn, or Lord Byron, to drink overmuch, or to get into debt, or to keep a harem. What is Mr. Thackeray's offence except the emphatic enunciation and illustration of this truth?

It is a relief to turn aside from such absurd complaints against our author, and contemplate the life and society which he presents to us. We have read of fashionable life in Bulwer, and Disraeli, and Warren, but it is a fashionable life, comparatively speaking, of the imagination. Pelham, the Young Duke, or Ten Thousand a Year, contain no pictures of the higher classes which can stand beside those presented to us in *Vanity Fair*, *Pendennis*, and the *Newcomes*. We feel that Mr. Thackeray's pictures are authentic and copied from life—photographs, while the others look like Berlin wool affairs.

Look at *Pendennis* and its multitude of characters. Warrington with his bristling blue beard whom Major *Pendennis* found on his first visit drinking beer like a coal heaver, and 'yet you couldn't 'but see he was a gentleman;' the brave Major himself for whom with all his worldliness and meanness we feel his nephew's partiality, and the success of whose manœuvres with General *Costigan*, and his own valet *Morgan*, fills us with delight and admiration; Jack *Costigan*—inimitable Jack *Costigan*—the descendant of a long line of Hibernian kings and 'such a boy for the whiskey 'and water;'—the all accomplished Chevalier *Strong*, 'who was 'always in spirits, never in the way or out of it, and was ready 'to execute any commission for his patron whether it was to sing 'a song, or meet a lawyer, to fight a duel, or to carve a capon;' Honest Harry *Foker* with his candid acknowledgment—'I was a 'stupid chap, I was—but you see sir I know 'em when they are 'clever, and like 'em of that sort'—his shrewdness, and good humour; *Morgan* of the true *Jeames'* tribe which Mr. Thackeray

always feels such a malicious pleasure in portraying, turning viperlike on 'Major Pendennis 'alf pay,' and so gallantly put down; Mirambolant the *chef* and his confidante Madame Fribsbi the milliner, to whom he communicated how he declared himself by his dishes, his *potage a la reine—a la reine Blanche*, his *filet de merlan a l'Agnes*,—and his ices, to the charming blonde 'Mees'; Little Bows, loving, disappointed and bitter to the last; Dr. Portman so wise and benevolent; Smirke of the open worked silk stockings and glossy pumps and white cravat and spotless linen, afterwards so largely developed as Charles Honeyman in a subsequent novel; Captain Shandon, 'the wittiest, the most 'amiable, and the most incorrigible of Irishmen,' whom no person could come across without liking; 'whose sweetness of temper 'nothing could disturb; not debts; not duns; not misery; not 'the bottle; not his wife's unhappy position; or his children's 'ruined chances,'—the crack writer for Bungay, and the friend of Jack and Tom of the Fleet Prison tavern; Sam Huxter fit knight for Fanny, with his fists in his pockets, clenching themselves involuntarily, and 'arming themselves as it were in ambush' at sight of Pen, and with his penitential 'will never do so any more Sir' to his father, when the latter comes to hear of Sam's marriage; Fanny herself crying at the loss of the ticket in Vauxhall gardens, and sitting up the whole night to read Walter Lorraine,—poor, pretty little Fanny; Blanche Amory so distinct from Becky Sharp in Vanity Fair and from Beatrix in Esmond, and yet so heartless with her sham enthusiasm and sham love and sham hatred and sham taste, and (to point the moral) with ever so little a *tache* on her white name, in that affair of Mirambolant and the creeper at the window; the Begum her mother, the most good natured, jovial, and generous of women who called Hackney, 'Ackney,' to be sure, but who also brought three times more champagne and fowls and ham to the picnics than any one else; frank, generous beautiful Laura with England's rose and lily on her cheek; saintly Helen Pendennis; the patient and gentle Mrs Shandon, whom one cannot but love and pity; the Fotheringay so magnificent on the Boards, where she had not the least Irish accent, talking of Ophalia at home, as the part in which she had appeared, and of the *poy* which she had made for her father;—is there any one of the vast throng whose acquaintance we are not glad to make, or whom we can ever forget?

The Newcomes we have already said is a work which in point of merit must have precedence of Pendennis; we sometimes doubt if it should not be placed above Esmond as well, and be considered

as Mr. Thackeray's best. Like *Pendennis* it reads like a vivid personal history. It embodies Mr. Thackeray's experience as a painter, as *Pendennis* embodies his experiences as an author. What are its faults? Captious critics have not discovered many, and we can afford to be brief on this point. The death of Rosey, Clive's first wife, is, we must confess, not very artistic. It was necessary, no doubt, for how could Clive marry Ethel if Rosey were to live on? and it gives occasion for Mr. Thackeray's very best monologues, but is not the event somewhat too sudden and abrupt? Death, it is true, has no regard for old or young, and time or place, but novel readers are fastidious, and cannot tolerate the idea of death coming on in this manner. Is not Barnes too much like the villain of a novel? Has not Mr. Thackeray, in this instance, abandoned his own high theory of mixing good and evil in all his characters from the best to the worst? A depraved wretch, the most abject of cowards, the most unscrupulous of slanderers, the most cruel of domestic tyrants,—what trait of goodness is in him? Did Mr. Thackeray in drawing Barnes have an eye on the villains of his great rival Dickens, who are all unmitigated villains? or think of his children's question—'why did he not write a novel like *Nicholas Nickleby*'? Rummun Loll's character embodies the popular prejudice against the natives of this country. Is it not too much of a caricature?

Another objection to the *Newcomes* is, that its pictorial illustrations are inferior to those in *Pendennis* and *Vanity Fair*. The illustrations in the *Newcomes* are drawn by a professional artist, 'that ingenious youth who marks his work with a dickeybird,' and who retired from the staff of *Punch* on account of the violent attacks which appeared in that periodical against the Pope a few years ago. As drawings, they may be, and are, probably superior, for Mr. Doyle has no doubt considerable advantage over Mr. Thackeray in manipulative dexterity; but as illustrations of the text, they must be regarded as decidedly inferior. Mr. Thackeray conveyed his ideas to us by use both of pen and pencil. Each helped the other. By abandoning the pencil even to so gifted a friend as Mr. Doyle, he has relinquished one of the sources of his triumph over Mr. Dickens. Look at some of the pictures in *Pendennis*. The Major after the Ball at page 71. vol. II. How capitably it realizes the description in the text. 'The rings round his eyes were of the colour of bistre; those orbs themselves were like the plovers' eggs whereof Lady Claver-ing and Blanche had each tasted; the wrinkles in his old face were furrowed in deep gashes; and a silver stubble, like an elderly morning dew, was glittering on his chin and along-side

'the dyed whiskers, now limp and out of curl.' Amory giving the 25£ note—the 'pony'—to Sir Francis Clavering, page 220 vol. II. You read the man's words in his face. 'Well, well there's the money Sir Francis Clavering. I aint a bad fellow. When I've money in my pocket, damme, I spend it like a man. Here's five and twenty for you. Don't be losing it at the hells now. Don't be making a fool of yourself. Go down to Clavering Park, and it'll keep you ever so long. You needn't 'ave butcher's meat; there's pigs I dare say on the premises.' What an air of conscious virtue and self-sacrifice there is in Amory's countenance! Mirambolant interrupted by his little assistant, page 218 vol. 1. What pathos of remonstrance there is in the artist's look! It will be remembered that he always sate down and played the piano for some time before composing a *menu*. 'Every great artist,' he said, 'had need of solitude to perfectionate his works.' Fanny and Dr. Goodenough vol. II. page 130. Ah me! We have the whole story of that little maiden,—the sleepless night,—the fluttering hope,—the unutterable anguish,—in this one cut! The very initial letters at the beginning of the chapters, throughout the volumes, act as an index to what is coming, like the poetic mottoes on which Sir Walter Scott prided himself. Look at that Canute and courtiers marshalling the letter *W* at the head of chapter 5 vol. 1. What ire is in Canute's eyes, what scorn on his lip, and what dismay and confusion in the countenances of his courtiers! Look at Phyllis and Corydon in that huge *O* at the head of chapter 8. Do not those downcast eyes tell us a story? Or look at the villain stabbing the shadow of that huge *M* which heads chapter 12. There is Major Pendennis stabbing Arthur's peace of mind. Poor Arthur!

Bating these deficiencies, the last of which involves a very high indirect compliment, there can be no question of the superiority of the Newcomes to Pendennis and Vanity Fair. Its characters are more numerous and varied, drawn with a bolder, freer hand, and engraved all the more indelibly in consequence on the reader's imagination. The Comtesse Florac *née* L. de Blois, how that very first letter of hers rivets the reader's attention! 'I hold you always in my memory. As I write, the past comes back to me. I see a noble young man who has a soft voice and brown eyes. I see the Thames and the smiling plains of Blackheath. I listen and pray at my chamber door as my father talks to you in our little cabinet of studies. I look from my window and see you depart.' What suggested this letter to Mr. Thackeray? Was it not that charming series of letters to Richardson from Mrs. Klopstock? From the Comtesse de Florac,

by an easy transition, we come to her son,—the brave, generous, frank, woman-conquering Flôrac. What a wonderful Briton he becomes at Rosebury! ‘In conversation with his grooms and ‘servants he swore freely,—not that he was accustomed to employ ‘oaths in his own private talk, but he thought the employment of ‘these expletives necessary as an English country gentleman. ‘He never dined without a roast beef, and insisted that the ‘piece of meat should be bleeding, ‘as you love it, you others.’ He ‘got up boxing-matches; and kept birds for combats of cock. ‘He assumed the sporting language with admirable enthusiasm, ‘drove over to cover with a steppère—rode across countri like a ‘good one, and was splendid in the hunting-field in his velvet ‘cap and Napoleon boots.’ Honest Fred Bayham! There never was a heartier fellow in the world. ‘See me—me F. Bayham,—des- ‘cended from the ancient kings ‘that long the Tuscan sceptre sway- ‘ed,’ dodge down a street to get out of sight of a boot shop, and my ‘colossal frame trembles, if a chap put his hand on my shoulder as ‘you did Pendennis the other day, in the Strand, when I thought ‘a straw might have knocked me down. Faults F. B. has, and ‘knows it—humbug he may have been sometimes, but I’m not ‘such a complete humbug as Charles Honeyman.’ Charles Honey- man just spoken of, with his diamond ring and scented cambric handkerchief, great in the lachrymose line, and as a preacher at Lady Whittlesea’s chapel, but greater far in those eloquent ornate epistles, so profusely underlined, ‘in which the *machina- ‘tions of villains* are laid bare with italic fervor; the *coldness*, to ‘use no *harsher* phrase, of friends on whom *reliance might have ‘been placed*; the outrageous conduct of Solomons; the astonish- ‘ing failure of Smith to pay a sum of money on which he had ‘counted as on the *Bank of England*; finally the *infallible certainty ‘of repaying* (with what heartfelt thanks need not be said) the ‘loan of so many pounds next *Saturday week at farthest*.’ Cheerful Mr. Binnie, chirruping in his cups, and demolishing Honeyman with the arguments of Hume and Gibbon, of whom he was an enthusiastic admirer. J. J. the pale, the sickly boy of genius, whose history has been promised to us, and is eagerly and anxiously expected by thousands. ‘What are the world’s struggles, ‘brawls, successes, to that calm recluse pursuing his calling. See ‘twinkling in the darkness round his chamber, numberless beauti- ‘ful trophies of the graceful victories which he has won; sweet ‘flowers of fancy reared by him; kind shapes of beauty which ‘he has devised and moulded. The world enters into the Artist’s ‘studio, and scornfully bids him a price for his genius, or ‘makes dull pretence to admire it. What know you of his

‘art? You cannot read the alphabet of that sacred book. ‘What can you tell of its glories, joys, secrets, consolations?’—The Colonel himself, Mr. Thackeray’s master-piece;—the dashing, impetuous, high-souled Ethel;—Lord Kew the type of a young English nobleman;—Gandish of the ‘igh art;’ Little Smee the portrait painter;—Moss who ‘kep away’ from his sick friend lest his presence should unpleasantly remind the invalid of the two pound three which he owed; Sherrick ‘(some say his name is Shadrach and pretend to have known ‘him as an orange boy, afterwards as a chorus singer in the ‘theatres, afterwards as secretary to a great tragedian)’ the wine merchant who has tried his hand at every sort of speculation;—his wife, ‘no other than the famous artist, who after three years ‘of brilliant triumphs at the Scala, the Pergola, the San Carlo, ‘the opera in England, forsook her profession, rejected a hundred ‘suitors and married him;’—the ogling leering, scheming, artful old campaigner, and Miss Rosey in pink crape with her six songs, and her ‘oh uncle’ or ‘oh mamma,’ ‘why did you tell,’ and ‘wicked, wicked mamma?’ Jack Belsize as hairy as Esau, and unfortunate Lady Clara Pulleyn; the Most Noble the Marquis Farintosh, in his uniform of the Scotch Archers, or in his native Glenlivet tartan with his twenty thousand a year. Todhunter and Henchman, worthy old fellows; ‘you will find Henchman in the park every afternoon. He will dine with you ‘if no better man ask him in the interval. He will tell you story ‘upon story regarding young Lord Farintosh and his marriage, and ‘what happened before his marriage and afterwards; and he will ‘sigh, weep almost at some moments, as he narrates their subsequent quarrel and Farintosh’s unworthy conduct, and tells you ‘how he formed that young man. My uncle and Captain Henchman disliked each other very much I am sorry to say—sorry to ‘add that it was very amusing to hear either one of them speak of ‘the other.’ The match making old lady Kew.—‘I am Bogey, ‘Clive, and I frighten everybody away;’ little Miss Cann playing on her old and weazened piano, while J. J. listens. ‘She ‘plays old music of Handel and Haydn and the little chamber ‘anon swells into a cathedral, and he who listens beholds altars ‘lighted, priests ministering, fair children swinging censers, great ‘oriel windows gleaming in sunset, and seen through arched ‘columns, and avenues of twilight marble.’ Major General Sir Thomas de Boots, with his red face, tight girth, choking white neckcloth, voluminous waistcoat and orders; Madame D’Ivry who lays the train for the duel; her friends Blackball and Punter; Sten’o the foolish little Gascon; Hobson Newcome and

his amiable and virtuous family; Martha Honeyman. What an endless crowd of people it is. Amidst such we daily live, and move, and yet take no note. The eye of genius marks the salient points of character, and we discern them when its hand jots them down. In three words, sometimes, with a magical stroke of the pen, as it were, a man or woman is described—fixed on the canvas and our imaginations, at once and for ever.

We had hoped to make long extracts from the *Newcomes*, and as we skim over its pages for the hundredth time, stronger and stronger comes the temptation. Our limits, however, will not permit us to make more than one quotation. Here it is.

‘The writer of these veracious pages was once walking through a splendid English palace, standing amidst parks and gardens, than which none more magnificent has been seen since the days of Aladdin, in company with a melancholy friend, who viewed all things darkly through his gloomy eyes. The housekeeper, pattering on before us from chamber to chamber was expatiating upon the magnificence of this picture; the beauty of that statue; the marvellous richness of these hangings and carpets; the admirable likeness of the late Marquis by Sir Thomas; of his father, the fifth earl, by Sir Joshua, and so on; when, in the very richest room of the whole castle, Hicks—such was my melancholy companion’s name—stopped the cicerone in her prattle, saying in a hollow voice. “And now madam, will you show me the closet *where the skeleton is?*” The scared functionary paused in the midst of her harangue; that article was not inserted in the catalogue which she daily utters to visitors for their half-crown. Hicks’ question brought a darkness down upon the hall where we were standing. We did not see the room: and yet I have no doubt there is such an one; and ever after, when I have thought of the splendid castle towering in the midst of shady trees, under which the dappled deer are browsing; of the terraces gleaming with statues, and bright with a hundred thousand flowers; of the bridges and shining fountains and rivers wherein the castle windows reflect their festive gleams, when the halls are filled with happy feasters, and over the darkling woods comes the sound of music;—always, I say, when I think of Castle Bluebeard—it is to think of that dark little closet, which I know is there, and which the lordly owner opens shuddering—after midnight—when he is sleepless, and *must* go unlock it, when the palace is hushed, when beauties are sleeping around him unconscious, and revellers are at rest. O Mrs. Housekeeper: all the other keys hast thou: but that key thou hast not!

Have we not all such closets, my jolly friend, as well as the noble Marquis of Carabas? At night, when all the house is asleep but you, dont you get up and peep into yours? When you in your turn are slumbering, up gets Mrs. Brown from your side, steals downstairs like Amina to her ghoul, clicks open the secret door, and looks into *her* dark depository. Did she tell you of that little affair with Smith long before she knew you? Psha! who knows any one save himself alone? Who in showing his house to the closest and dearest, does not keep back the key of a closet or two? I think of a lovely reader laying down the page and looking over at her unconscious husband, asleep, perhaps, after dinner. O yes, madam, a closet he hath: and you, who pry into everything, shall never have the key of it. I think of some honest Othello pausing over this very sentence in a railroad carriage, and stealthily gazing at Desdemona opposite to him, innocently administering sandwiches

to their little boy—I am trying to turn off the sentence with a joke, you see—I feel it is growing too dreadful, too serious.' Vol 1 pages 112-3.

Pitched in the true Thackeray key is that music; is it not? The passage has been quoted often in reviews and magazines, but it is too good ever to get stale.

Vanity Fair comes next according to our table of merit. And what shall we say of *Vanity Fair*? It was the work which first brought Mr. Thackeray into notice, and is undoubtedly a work of no ordinary genius. Whenever and wherever published it would have commanded attention. Its vivid and accurate pictures of life, its subtle and wide insight into character, its philosophy, its pathos, at once challenged universal admiration. The reason that we have placed it so low in comparison with Mr. Thackeray's other productions is that *Vanity Fair* is too truculent, too hard, perhaps too harsh in its judgments of the world. Mr. Thackeray's pen had not then become mellow, nor had it benefitted, by those severe criticisms in the reviews and newspapers which Mr. Thackeray has no doubt always affected to despise, and which in many respects, were certainly open to his contempt, but which have nevertheless insensibly acted upon his subsequent productions and made them more generous in their tone.

It may not be uninteresting to note some of the objections raised by the reviews against *Vanity Fair*. First of all, there was Dobbin's splay feet, big hands and lisp, which we have already disposed of, deciding in favor of our author. Second,—there was a charge of insipidity against Amelia. This charge Mr. Thackeray bitterly resented at the time, but there was some little truth in it, mixed up with much exaggeration; gentleness and goodness, it is to be feared, must often seem a little insipid, and so far Amelia was insipid; but in her insipidity there was nothing to repel. She was very loving and very loveable. There was not much strength of character in her, but who wants such strength in a wife—no, the less of it, we agree with Brown, the better! Mr. Thackeray must have felt the critic's censure somewhat keenly for his next heroine was Rachel Esmond, a perfect lady, as we think,—though his critic immediately charged him with running from one extreme to another. Third—Mr. Thackeray was taken to task for crowning the career of Becky Sharp with a murder. Why a murder? Why end a comedy like a tragedy? In the same way he was asked why Beatrix in *Esmond* should have become—plain words are best—so utterly abandoned at the conclusion? For our parts, we think that nowhere has Mr. Thackeray shown more judgment than in these two points. He would have been false to his own high instincts, if to please a morbidly fastidious

taste, or gratify a sham delicacy he should have written differently. The very grimness of each catastrophe heightens the moral effect. *Vanity Fair* is not a comedy, it is a faithful representation of life. Is life a comedy? After painting Becky Sharp's downward career step by step, to omit that appalling background would have been to trifle with his duty as a public teacher, if it would not even have been to pander Ainsworth-like to public depravity. It will be remembered that nothing throughout is broadly stated. Nowhere from the commencement are we certain of the lady's guilt? We are left to infer. Her position is equivocal;—that is all. Neither in the dazzling saloon of the Marquis of Steyne, nor in the garret of the obscure continental town, with German medical students craving admittance can one be positive that Becky is criminal; no more can one be that she murdered Jos Sedley. An air of suspicion floats round her ever; it grows denser and denser, it becomes almost suffocating—but there the Master-hand stops,—and in so stopping proves how deep and profound is its skill. Surely no more faithful picture of life, as it daily presents itself to us, has ever been drawn.

Looking over the range of characters one cannot help being struck with the prominence and individuality with which many of the figures stand out. George Osborne's father, the beetle-browed tyrant, the type of an English merchant, obstinate but generous, to whom nothing would have given greater pleasure than to see his little grandson in Parliament couch a lance against the best speakers of the day;—broken-down old Sedley, still dreaming of making fortune, and carefully tying up prospectuses of wine and coal companies with red tape;—Col. O'Dowd of O'Dowdstown, so good natured, corpulent, and brave; and his lady with her jolly, mottled arms and magnificent turban and bird of paradise, her broad Irish accent, and kindly woman's heart; Stubble and Spooner, the ensigns; old Crawley the type of everything low and mean; frank, generous, but stupid Rawdon; the conceited Sir Pitt and gentle Lady Jane, who steals into the picture like sunshine; the invalid old Miss Crawley whom every body propitiated with an eye to her fortune; Col. MacMurdo so much at home in affairs of honor; the fox-hunting parson, his worldly wife, and promising son, who in lighting his cigar extinguished all hopes of a fortune. Can we spare any of the motley group? Is the assemblage less notable than the throngs in Pendennis and the Newcomes we have already noticed? Are we not familiar with each and all of the characters as with people whom we have met and expect to see again? Turning over the leaves of our well-thumbed copy we almost sigh to think we have placed

Vanity Fair fourth in order of merit, and the old feeling comes over us that *that* work of Mr. Thackeray's is his best, which we have read last.

Of the Virginians, which we consider the worst of Mr. Thackeray's larger productions, we shall say little. It commenced well, and there is a great deal of writing in it which would have made the fortune of any new novelist, and which may take rank with the best parts of Thackeray's other works, but it has been very much spun out towards the end, and must be pronounced on the whole a failure. Our author after proceeding well for a time, seems to have tired of his work, and to have had no heart in it. The historical characters by no means answer our pre-conceived notions. Washington is not bad; Wolfe is perhaps better; but the glimpses of George Selwyn, and Lord March, and the great lexicographer disappoint us much. Theo and Hetty are delicious little pictures, and we would much rather have such portraits from Mr. Thackeray's pen than the outrageous caricature with which he has favored us of the world's and Boswell's Johnson. The revival of Beatrix, too, appears a mistake. It would have been judicious, we think, to have dropt the curtain on her with Esmond. If the revival of Sam Weller and his father in Master Humphrey's Clock has been condemned as injudicious, much more may this. The moral had been sufficiently pointed, and to bring the old lady again before the audience, was not required. Not that she disappoints; she answers expectation; but in this instance, any account of her would be worse than a discreet silence. She is still the same worldly, selfish, impure woman, which we had before supposed her to be, with larger experience, and grey hair, but no godliness, and no renunciation of her former ways. If a streak of goodness, and generosity, and love, comes across her petrified heart, in beholding, the innocent children of cousin Harry Esmond, the 'finest gentleman' that she ever knew, it comes in spite of her, from impulse, and not principle. She dies, mourned and loved and even pitied by none, like old Sir Pitt Crawley. There is no lack of power, or of instruction in the representation, but we would rather have been spared witnessing it, and the more so because Sir Pitt's melancholy end is not yet forgotten.

Among Mr. Thackeray's minor works we consider Mr. Brown's Letters to his nephew best; its easy, natural, graceful style has peculiar charms for us; Jeames' Contributions second; the Snob Papers third; and the Luck of Barry Lyndon and the Burlesques last of all. From this estimate, we of course, exclude The Great Hoggarty Diamond, which we have already noticed in the

course of this article as a rare jewel, far superior—we say it deliberately—to the Vicar of Wakefield.

We had marked for extract a long passage on love, marriage, and women from Brown's Letters, but our space will not permit its insertion, and this we regret the less as the book is, or ought to be, in every body's hands. A much shorter extract can only be given here.

How Mr. Brown served Ruffles when they were invited by the Marquis of Sweetbread to dinner to meet Prince Schwartzberg and the Hetman Platoff.

'I was myself a young one, and thought Ruffles was rather inclined to patronise me: which I did not like. "I would have you know, Mr. Ruffles," thought I, "that, after all, a gentleman can but be a gentleman; that though we Browns have no handles to our names we are quite as well-bred as some folks who possess those ornaments"—and in fine I determined to give him a lesson. So when he called for me in the hackney-coach at my lodgings in Swallow Street, and we had driven under the porte-cochère of Sweetbread House, where two tall and powdered domestics in the uniform of the Sweetbreads viz spinach-coloured coat, with waistcoat and the rest of delicate yellow or melted-butter colour, opened the doors of the hall, what do you think, sir, I did? In the presence of these gentlemen, who were holding on at the doors I offered to toss up with Ruffles, heads or tails, who should pay for the coach; and then purposely had a dispute with the poor Jarvey about the fare. Ruffles's face of agony during this transaction I shall never forget. Sir, it was like the Laocoon. Drops of perspiration trembled on his pallid brow, and he flung towards me looks of imploring terror that would have melted an ogre. A better fellow than Ruffles never lived—he is dead long since, and I don't mind owing to this harmless little deceit.'

Jeames's History of the Honorable Mr. Deuceace's and his father's doings is very rich. It is too long to extract. Is not Earl Crabbs the great prototype of Sir Pitt Crawley? The Snob Papers are deservedly popular. The Luck of Barry Lyndon we like least, because it is not in Mr. Thackeray's usual vein. The Burlesques have very much the air of what is called deadly-lively, and as deliberate travesties, are unworthy of our author's high reputation. The Novels by Eminent Hands and some of the Sketches of Character are very good, and among the Short Tales we may notice, The Fatal Boots, The Ravenswing, Mr. and Mrs. Frank Berry, as indicative not only of high genius, but of the peculiar bent of that genius. They exhibit an endless fund of humour, keen insight into character, thorough knowledge of the world; and the first glimpse of that relentless satire which when fully developed in Vanity Fair, at once placed our author in the rank of the first satirist not only of this, but of all generations.

On Mr. Thackeray's poetry Warrington has already passed judgment. 'Pen's is not first chop.' The public concur in the

verdict ; it is not first chop, that is, not equal to Tennyson ; but at the same time, it would be absurd to say that it is not far better than the ordinary run of magazine poetry. There is an earnestness and simplicity in the sentimental pieces which place them far above the level of our every-day literature. And who amongst the brilliant contributors of *Punch*, including even Shirley Brooks and Tom Taylor, could rival Pleaceman X's happiest efforts such as Jacob Omnium's Hoss, or the best of the *Lyra Hybernica*, the poems of the Molony of Killbally Molony such as the Ball to the Naypaulase Ambassador.

The best of the serious pieces are the May-day Ode, published originally in the broad sheet of the *Times*,—a journal with which Mr. Thackeray had some time before quarrelled for a most ungenerous attack on a small Christmas Book,—The Ballad of Bouillabaisse, the Cane bottomed Chair, the Pen and the Album and the End of the Play.

We extract a few lines from the last, the truth of which must come home to every bosom.

Good night ! I'd say, the griefs, the joys,
Just hinted in this mimic page,
The triumphs and defeats of boys,
Are but repeated in our age.
I'd say, your woes were not less keen,
Your hopes more vain than those of men,
Your pangs or pleasures of fifteen,
At forty-five played o'er again.
I'd say, we suffer and we strive,
Not less nor more as men than boys ;
With grizzled beards at forty-five,
As erst at twelve in corduroys.
And if, in time of sacred youth,
We learned at home to love and pray,
Pray Heaven that early Love and Truth
May never wholly pass away.
And in the world, as in the school,
I'd say, how fate may change and shift ;
The prize be sometimes with the fool,
The race not always to the swift.
The strong may yield, the good may fall,
The great man be a vulgar clown,
The knave be lifted over all,
The kind cast pitilessly down.
Who knows the inscrutable design ?
Blessed be He who took and gave !
Why should your mother, Charles, not mine.
Be weeping at her darling's grave ?*

* C. B. Ob. 29 Nov. 1848. at 42.

We bow to Heaven that will'd it so,
That darkly rules the fate of all,
That sends the respite or the blow,
That's free to give or to recall.

This crowns his feast with wine and wit:
Who brought him to that mirth and state?
His betters, see, below him sit,
Or hunger hopeless at the gate.
Who bade the mud from Dives' wheel
To spurn the rags of Lazarus?
Come, brother, in that dust we'll kneel,
Confessing Heaven that ruled it thus.

So each shall mourn, in life's advance,
Dear hopes, dear friends, untimely killed;
Shall grieve for many a forfeit chance
And longing passion unfulfilled.
Amen! whatever fate be sent,
Pray God the heart may kindly glow,
Although the head with cares be bent,
And whitened with the winter snow.

Come wealth or want, come good or ill,
Let young and old accept their part,
And bow before the Awful Will,
And bear it with an honest heart,
Who misses, or who wins the prize.
Go, lose or conquer as you can;
But if you fail, or if you rise,
Be each, pray God, a gentleman.

An article on Thackeray without a comparison with Dickens, would to many look like the play of Hamlet, with the part of Hamlet left out. We have endeavoured thus far to stave off the comparison, but it is inevitable. Why it should be so is more difficult to answer, for beyond the broad fact that they jointly are at the head of living writers of fiction, there is nothing in common between them. Yet go where you will, if literature be the topic, the two names are invariably coupled together. Some critics profess to admire Dickens, some Thackeray most. Perhaps the admirers of Dickens preponderate; but, while protesting against the comparison of things wholly dissimilar, we must cast in our vote with the minority, if minority it be. Concurring in the general opinion that Dickens is the greater master in the ideal, Thackeray in the real; that Dickens is the more genial, generous and romantic, Thackeray the more, vigorous, caustic, and shrewd; we must yet give the palm of superiority to the last, not less on account of his terse,

pointed and classical style, than for those lofty aims of which he never for a moment loses sight. To reclaim and elevate his readers, to compel them to analyze and examine their motives of action, to discover the true nature of those flattering unctions, with which as virtues or duties they stifle their consciences, and to instruct them to sympathize more with people inferior to them in wealth, in rank, or intellect ;—these are Mr. Thackeray's aims. As artists, Mr. Dickens' creations resemble Frank Stone's beautiful pictures, while Mr. Thackeray's resemble photographs. However much we may admire the skill with which the first are colored ; in faithfulness they must yield ; nor is it any disgrace to Dickens to add that while he must rest content with the honor of being a noble follower of an old school,—a school of which Shakespeare was the great master,—Thackeray may proudly call himself the founder of a new school, in which life appears as it is, and where if we have no model heroes composed of all that is good, and noble, and no model villains composed of all that is despicable in us, we have such men as we daily meet in our walks through life. No character in Thackeray is without infirmity. Lady Rachel Esmond listens through a keyhole, as we have seen, when she finds her husband about to engage in a duel ; Colonel Newcome's bamboo cane comes formidably in front when he detects Barnes Newcome's falsehoods, and his subsequent judgments of his relatives, however natural, are not what Pendennis would have wished his venerable friend to form ; Pendennis is but 'a brother and a man ;' and the noble Dobbin has 'splay feet' and lips abominably. On the other hand, what tints of goodness appear in places where we should have least expected them. How affectionate and brave is old Major Pendennis notwithstanding his worldliness and his toadyism. What a good fellow is Fred Bayham, though he will never accompany you through Cursitor Street in which his tailor's shop is situated ! And do you not confess to some liking of the chaplain in the Virginians, who said he would have flung over Master Will into the pit for whistling and hissing at George's new play, (and the reverend gentleman was fully man enough to execute the threat) 'but he saw a couple of Mr. Nadab's followers prowling 'about the lobby, and was obliged to sheer off' ? Even Becky Sharp brings about Dobbin's marriage, and Beatrix watches over Harry Esmond's grandchildren with maternal solicitude and affection. Is it not thus in life ? Who is so good, but that he might be better ? Who so bad, as to have lost all trace of humanity ? There is none who has been so obedient to the will of the Father as to claim heaven on his own merits ;

or else Christianity would be a fable. Our very repentance is so imperfect as to need repentance, and the best of us must be cleansed, and sanctified, and robed in another's garments, before we can be fit to stand in the presence of Purity. On the other hand, the friend of publicans and sinners, never yet cast away any one that came to him. None is so vile as to have completely obliterated in himself all marks of the Hand from which he sprung. The Roman Catholic legend of the Pope who sent the penitent robber, and adulterer, and murderer, despairing away, with the sentence that God would as soon wash out his sins which were of the colour of scarlet, as make the 'peeled staff' in the hand that denounced him, 'put forth both leaf and bloom,' and found green branches with flowers instantly spring out of it, is assuredly, however extravagant, founded upon the essentials of Christianity. No theologian understands these things better than Mr. Thackeray.

More appropriate than a comparison with Dickens would be one with Hogarth. Here the palm of higher genius would be incontestably Thackeray's, and no plea of dissimilarity in the nature of the work could be allowed. Both have a high moral purpose, of which they never for one moment lose sight, and both use the same means for the attainment of that purpose. Satire, keen, biting, relentless satire, are the weapons of both, and are used by both, with an earnestness, which, but that it is necessary, might be called ferocious, an earnestness that has made many cast upon both imputations, which neither ever deserved, and which Thackeray's later writings have shown to be utterly and ridiculously unfounded. Charges of taking the dreariest view of life, of delighting to expose the ugliest side of humanity, of vulgarity, of bitterness, of misanthropy, have been brought against both without good cause, for in neither to use the words of Coleridge on Hogarth 'has the satirist extinguished that love of beauty which belonged to him as a poet.' 'The instructive merriment at the whims of nature, or the foibles or humours of our fellow men,' which we enjoy in both is permitted by neither 'to degenerate into the heart poison of 'contempt or hatred.' If one lovely face springs up in Hogarth, amidst a multitude of hard, coarse, repulsive faces, to make atonement as it were for them and clear the atmosphere of the moral miasma, how many hundreds of beautiful faces spring up in Thackeray. If there is the 'scorn of vice' in both, to use the words of charming Elia, there is the 'pity' too, and how that pity predominates over the scorn in the later and more gifted workman! Hogarth's love of children has been often noticed. The

baby in the march to Finchley Common, and the little boy winding up his top in the Harlot's Funeral, have often drawn high praise from discerning critics. Thackeray's love of children is not less noticeable. Little Rawdon Crawley by his mother, and Miles Warrington by his, how each redeems the picture and touches it with sunlight! Both Hogarth and Thackeray love fun, but neither loves it more than truth. Both remember that this is not an age of gold, 'without vice and without 'misery,' and that to reform it they must expose it; and by both the exposure is thoroughly fearless, though not thoroughly merciless. In their weaknesses and their strength both are thoroughly English; but to the disadvantage of Hogarth it must be written that he sometimes permitted his personal antipathies to overcome his judgment, and his right hand to level against an enemy a weapon that his successor and master never levels but against the enemies of virtue and order. Perhaps on that very account, is the instrument all the more deadly and powerful. Thackeray never forgets Snob's parting words to Punch—fun is good, but truth is better, and love best of all.

If in the course of time it should be our good fortune to revisit England, one of the enjoyments on which we count, and by which we set much store, will be the privilege of meeting and perhaps making the acquaintance of Mr. Thackeray. There may be something smacking of Boswell in this confession, but we are not ashamed to make it still, remembering as we do, that Mr. Thackeray has himself confessed in his lectures, how glad he would have been to black Shakespeare's shoes, or wait on Fielding with his cup of coffee in the morning, and not forgetful of that kindly hand which has painted the unsophisticated and generous Colonel Newcome in the chambers of Pendennis and Warrington, that room with its dingy curtains and prints and book cases, its litter of proof sheets, blotted manuscripts and books for review, empty soda water bottles, cigar boxes and what not, is it absurd in us to say so much? It may be so, but we shall hope otherwise. The tall form towering above the crowd like the form of the son of Kish, the head so bountifully sprinkled with white, the face without a streak of colour, the look at once kindly and scornful, of which we have all read or heard so largely, would then no longer be phantasms of the imagination. And haply we might hear the (*Qu'en dites vous*) which greeted the authoress of *Jane Eyre* as she left the lecture room where duchesses and countesses had crowded to listen to the greatest comic writer of the present age speak of his predecessors, or sit at his own table (is not this too broad a hint Mr. Brown?) and

attend to some old reminiscence of Goethe or Maginn,—or in the study see though but for a moment, in that honored hand the famous gold pen which created Rebecca Sharp and Thomas Newcome, Jack Costigan and Rachel Esmond, for the laughter and tears of endless generations, and which uttered no empty boast when it wrote in an album :—

Nor pass these words as idle phrases by,
Stranger, I never writ a flattery,
Nor signed the page that registered a lie.

ART. V.—1. *Reports of decisions of the Judicial Committee of the Privy Council on appeal from the Supreme and Sudder Dewanny Courts in East India.* Vol. VIII. By E. F. MOORE. London: 1861.

2. *A Practical Treatise on the Appellate Jurisdiction of the House of Lords and the Privy Council.* By JOHN MACQUEEN. London: 1842.

3. *Practice of the Judicial Committee of the Privy Council.* By WM. MACPHERSON. London: 1860.

4. *Proceedings and Ordinances of the Privy Council of England.* By Sir HARRIS NICOLAS. 7 Vols. London: 1834.

5. *An Essay on the Authority of the King's Council.* By Sir F. PALGRAVE. London: 1844.

THE object of the following pages is to elucidate the history of the only institution in England, with which India and the British colonies, are habitually and directly brought into contact. The wise principles which have animated the recent dealings of the mother country with the colonies, have withdrawn their affairs very much from the immediate contact of Parliament, but have centered in the Sovereign in Council a constant control over the administration of justice. This right is inherent in the person of the sovereign and belongs to the idea of royalty. In reference to India that right has been the subject of several Acts of Parliament, defining, controlling and confirming it. The 3 and 4 William IV. c 41, created 'the Judicial Committee of the Privy Council' and secured a certain and speedy hearing of appeals from India, and to facilitate such hearing provided for the appointment of retired Indian Judges as Assessors to the Court. The Privy Council also entertains appeals from the Ecclesiastical and Admiralty Courts, but not from the Courts of common law and equity, or in criminal cases when the crime is committed within the jurisdiction of the British Courts. It is also the recognized executive or deliberative body of the state—the cabinet being entirely unknown to the law. We desire to trace and ascertain the legal rights and constitutional importance of an institution which is interesting to India in common with the whole colonial empire of Great Britain. Nor is the subject without importance in the constitutional history of Great Britain,

for in a structure of such continuous growth almost every part has a separate history and marks the fate of a distinct principle of politics. The struggles of the commons and the rise of the third estate are more familiar subjects, and appeal to popular sympathy; but the vicissitudes to which the sovereign's privy council has been exposed are of hardly less historical and constitutional moment.

The Saxon times are the source of English history, and in their rugged simplicity, we are accustomed to seek the indistinct and half-formed outlines of institutions familiar to ourselves in the fulness of maturity. A council of government however is so obvious an expedient, that every nation not entirely destitute of free spirit has adopted it. In Tacitus* we have the well known description of the primitive Germans 'de minoribus rebus principes consultant: de majoribus omnes; ita tamen ut ea quoque quorum penes plebem arbitrium est apud principes pertractentur.' In other words we find there is a select council of administration; the larger body meet to control, advise and legislate. The affinity of race prepares us for the striking resemblance to this which we find in the Homeric† council. There the separate functions of the βουλή and the ἀγορὴ are constantly distinguished. The former, composed of γέροντες whose power and personal capacity conferred the right of attendance, were entrusted with the more secret business of the executive and exercised in the latter the indisputable influence of intellectual superiority. The ἀγορὴ in its turn was the arena where the great questions of peace and war were discussed and decided by the general voice of the community. Amongst the Anglo-Saxons we find traces of two distinct councils—one the precursor of Parliament, the other the germ of the Privy Council. The first—well known to us as the witenagemote—was convened by royal writ at all seasons of the year; Christmas, Easter and Whitsuntide being then, as subsequently under the Normans, most usually selected. It undoubtedly possessed concurrently with the king the legislative power; its share in the executive extended to treaty making, negotiations with foreign powers, the conduct of hostilities, and even in some degree to a supervision over the grants to monasteries and the state of ecclesiastical discipline. As a high court of judicature, the principle on which its authority was chiefly based grew out of the frequent necessity for the executive interfering, where by reason of 'might on one side and unmight on the other,' the due administration of justice was impeded and defied.

* Germ. XI.

† Gladstone's Hom. vol III. 94-144.

On the other hand, we have the select council, or committee of administration, apart from the larger witenagemote; its existence has however been disputed. From the circumstances of the time the natural presumption in its favor is neglected perhaps amidst our notions of the popular spirit of the administration. A full assembly of the witenagemote, even if we restrict the right of attendance to thanes who held forty hydes of land, would be of unfrequent occurrence. As business multiplied it would naturally fall into the hands of a select few, chosen, probably, by the king from his witenagemote. Men, whose intellectual and material resources gave them ascendancy in church or state, whose sympathies were all with the ruling *caste*, and whose provincial authority was indisputable, naturally engrossed the authority of the executive, reserving questions of importance, which demanded the full strength of government, for the consideration of the more general assembly. Evidence has also been deduced from the numerous charters granted by the kings, and dated from the different manors in their progresses through their dominions, of the constant attendance of a select few in the king's council. The authority of Hincmar* has been cited to prove the existence in the administration of Charlemagne, of a secret select council for public business, claiming also an appellate jurisdiction over the different tribunals of the country. A similar necessity—that of constant attendance on the King required by the exigencies of the administration from the time of Egbert, who came to the English throne fresh from the court of Charlemagne,—must have led to the establishment of government by 'king in council.' Nor is it probable that, when the select council of the kings came to be established, it would be restrained from exercising the full powers, executive and judicial, of the larger assembly by any other consideration than the insufficiency of its authority, in cases of emergency, to give a binding force to its acts and decisions.

Thus the constitutional functions of this council were twofold—executive and judicial. In either case it was the representative of the witenagemote, but placed in closer personal relations with the king, and deriving from him a more direct and active authority. Judicial power was of two kinds, original and appellate. When the former was exercised by either the larger or the smaller council it was by virtue of the royal authority—it was the interference of the Government as the conservator of the public peace. The latter devolved upon the witenagemote because it

* Kemble's Saxons in England, v. 188.

stood in the relation of a federative assembly to the local courts for purposes of protection and appeal. The whole Anglo-Saxon polity was based upon judicial institutions—the leet, the hundred, the court of the ealderman, each tenacious of its exclusive jurisdiction over suitors within its limits, but deferring to the royal witan as the great council in which all inferior jurisdictions were merged.

Both in the leet and in the witenagemote, the judicial drew after it the legislative power; they who condemned apportioned the penalty—those devised the remedy who preferred the complaint. The witenagemote consisting of ealdermen and thanes (often possessing individual powers of jurisdiction), and of delegates from provincial leets and gemots, effected a concentration of judicial power originally inherent in the local courts. These were famous for their independence, and therefore, if the witenagemote intercepted the judicial process of the court below, it violated the constitution; an appellate jurisdiction alone had been assigned and that too only when justice had been thrice denied. The more powerful thanes, who could not be rendered amenable to the inferior courts, would naturally look to the supreme council of the state. But it was contrary to the spirit of this supreme court to multiply the business which might come before it. If the plaintiff sought justice from the king in the first instance, he incurred a fine* in compensation for the privilege. Justice must have been thrice denied at home; and the reason for this precaution against an excess of business seems to lie in the burden and inconvenience entailed by attendance on the members of the council.

But, however, favorable this scheme of polity may have been to the liberty of the subject, it certainly did not secure the general progress of society after. The Saxons had held power in the island, for six hundred years the introduction of the Normans seemed necessary to infuse new spirit into the machinery of government, though it did not essentially change its form. The courts of justice retained the same powers though the bishop was withdrawn from the county court and a royal justiciary presided in the hundred. How far this and the changes in the tenure of land by enhancing the power of the king affected the position of the Curia Regis, as the supreme council then, though probably not for the first time, came to be designated is a point to be considered in estimating the relative position of the select council to the king on the one hand, and to the Great Council or Parliament on the other. The continuance of this select council during the Norman period is a reasonable theory, both from the necessities of

* Athelstan, quoted Edin. Review, vol. xxxv.

William's position as an invader and as a chieftain of a powerful band of nobles, and from the repugnance of these nobles to anything like a regular attendance at court. Whatever rights, legislative and judicial, were possessed by the Curia Regis would naturally be constantly exercised by a much smaller council, who would, in matters of higher importance, convene the larger assembly in order to give greater stability to the acts of government. The courts *de more* when William and his sons 'wore their crowns,' held at Christmas, Easter, and Whitsuntide, would from time to time vary in the numbers who attended them, and have in fact been regarded* as the select council distinct from the Curia Regis which was even, it is said, occasionally assembled at the same time. However this may have been, there is no evidence that they differed from the Curia Regis with respect to their rights and privileges. But during this general assemblage of the barons, the powers of the select committee were suspended and the great council exercised the right of jurisdiction in the last resort,† partly we may believe from an inherent right of the peerage, grounded on feudal reasons; though in later times it was affirmed by Bracton‡ that such judicial authority existed solely by delegation from the king.

One important indication of the tendency of society to entrust the exercise of power to the hands of a responsible few is early visible. A committee of seven great officers of state with certain barons as assessors was established, possessing rights of jurisdiction which fell into its exclusive hands whilst it held sittings 'ad scaccarium.' This was the first institution of the Exchequer court—the *Curia Regis ad Scaccarium*—for the exclusive administration of all affairs connected with the revenue of the kingdom, and with jurisdiction in all causes which pertained to it, afterwards indefinitely extended by a legal fiction, which supposes some debt to the crown as the basis of the action.

This was in the reign of Henry I, and at the close of Stephen's we arrive at a period which is an era in English history. The courts which had been held 'de more' at Christmas, Easter, and Whitsuntide had now fallen into disuse; the rivalry between the secular and ecclesiastical powers had already taken the form, afterwards so strongly developed, of a tenacious claim to separate, and then superior, jurisdiction; and the sovereign, with his chief justiciary Glanville, possessed a genius for legislation which has

* Report of the Lords' Committee on the dignity of a Peer.

† Edin. Review, vol. xxxvi. 364.

‡ Bracton iii, 10. Dictum est in proximo de ordinariâ jurisdictione quæ pertinet ad regem, &c.

gained an imperishable reputation. Every thing pointed to a new settlement of our judicial institutions. It was contended by Mr. Allen in opposition to most antiquaries, that at the great Council at Clarendon (1164) during this reign, the separation of a smaller council from the *curia regis* first took place. In this reign at least this council was confirmed and fully established, but we also have clear indications of the existence of another court, still with the title of 'Curia Regis,' for the express purpose of administering justice, always following the king's person as the source of its authority, and on which the title of Court of King's Bench was afterwards bestowed. The chief justiciary usually presided, but the king was by law the president, and there are instances cited by Madox* of Henry III personally sitting for the administration of justice. The rolls of the King's Bench have been published by Sir F. Palgrave† from 6 Richard I, and are the most ancient in existence; dating more than half a century beyond the "Olim" registers of the 28 Louis IX (1254), which are the oldest continental rolls preserved to us in a continuous form. The records, however, must have been taken at a still earlier period; for one in 2 Henry II is extant, and another preserved to us of 9 John quotes one which then existed of 7 Henry II.‡ Few, however, of those reigns remain, the greater number having been lost together with those of the early years of Richard I.

The authority of Benedict Abbas is relied upon by Mr. Hardy and Mr. Hallam to prove a subsequent remodelling of this court; viz. that in 1176 Henry II reduced the number of justices from 18 to 5 and ordered that they should remain in the king's court to hear all writs of the kingdom, referring to the king and the wisest men of the kingdom the decision of any cause which they could not settle. Madox refers to Hoveden, who says that in 1179 the king at a great council at Windsor divided England into four parts, with a justice for each division. This will be sufficient to account for the jurisdiction of the King's Bench being intimately bound up with the common laws and usages of the country. This institution together with that of the appointment of justices in eyre soon drained away the jurisdiction of the local courts; the king's council retaining, as we have seen, a general appellate jurisdiction to correct erroneous decisions, but

* Madox's History of the Exchequer vol iii p. 100.

† Sir F. Palgrave says (Essay p. 62), 'that the functions of this court were not unfrequently exercised by the kings in person, as late as the first and second Edwards.

‡ Palgrave's Introd. to the Rolls of the Curia Regis, sect. i and ii.

more frequently, as we may conjecture, to provide extraordinary remedies.*

It was enacted by Magna Charta that the adjudication of all common pleas of a civil and criminal nature should be held in some fixed place. This is the date generally assigned to the origin of the court of Common Bench though it is sometimes carried back to the reign of Richard I.

Thus the three courts of common law grew out of the Curia Regis, and sought to establish their independence. In this however they could not expect at the first to be successful. The *consilium regis* sat with the king's bench and were so often mixed up with its transactions, that the style of that court was often *coram consilio regis*, or *coram rege et consilio*. Under Edward I, the epoch of the rise of the lawyers as a profession, we find this less frequent, though it still continued, either by way of advice on the part of the council, or when issue being joined before the council, in or out of Chancery, the record was sent down to the king's bench. Again the barons of the Exchequer were also lords of the Council, though forming a separate court with a special seal in custody of the Chancellor of the Exchequer. They obtained civil and criminal jurisdiction, as we have said before, under a legal fiction, until they were deprived of the latter by the statute 17 Charles I. The court of common pleas on the other hand was always distinct from the *consilium regis*: it decided in suits when brought between private parties and therefore not affecting the king.

Next we must notice the *consilium regis ordinarium* which consisted, according to Sir Matthew Hale, of all the members of the Privy Council, the great officers of state, the master of the wardrobe, the treasurer and comptroller of the household, the chamberlain of the exchequer, the judges of the bench, masters of chancery, till under Edward I *viriperti* or lawyers might also receive a writ of summons. When all met together they were the king's great council† and decided on the weightiest affairs of state; when the business was of a more contracted nature, those only were summoned under whose cognizance it might seem more especially to fall. The privy council were a select body of these, and entrusted with the secret affairs of state, but often from the indefiniteness of constitutional ideas then prevailing, perhaps from usurpation, exercised powers which more properly belonged to the *consilium ordinarium*.

* This latter branch of its jurisdiction is not directly traceable higher than the reign of Henry III.

† Hale's jurisdiction of House of Lords' c. 4. of Hallam's Middle Ages, vol. iii. 138.

The office and business of this *consilium ordinarium** which was summoned by the king, must be described in reference first, to its deliberative office or power of advice, secondly to its decisive power or power of jurisdiction. The former of these included consultations about affairs of state and public business, as peace, war, finance, truces, leagues and matters of that sort, to which they were summoned by the king. The latter comprised petitions to the king when specially recommended by him to them; also petitions addressed to king and council, and of course those addressed solely to the council. These petitions were not very generally decided before the council. Sometimes they referred them *coram magno consilio*, sometimes *coram rege*. The usual custom, however, was to refer them to the courts, where they were legally determinable. The Council would easily be induced to part with this element of power partly in deference to the jealousy of the people in favor of common law, partly because the judges of the bench were always members of the *consilium ordinarium*, and in the early history of these courts the members of the *consilium ordinarium* were of right assessors to them. Till 5 Richard II c. 9 the usual way and remedy for the king's creditor was to petition the Council in Chancery.

The Privy Council grew up out of the *consilium ordinarium* whose name it for a long time retained. It was a committee of government sworn to secrecy, and it gradually assumed a separate existence, as partly the courts of law became established in their independence, partly they themselves had no occasion for the presence of the judges and lawyers in the more secret business of the executive. It did not in general assume the title of Privy Council of England till after the reign of Henry VI.,† though earlier instances are found of its adopting the name. The indefiniteness of its authority arose from the fact that its members also belonged to the *consilium ordinarium*, and as such could appeal to abundant precedent for their interference in the proceedings of the courts, both of law and equity. The justification of such interference arose from precedents alone—the questionable precedents attending the gradual birth of those courts, before their independence was secured and their authority defined. The exercise of this authority on the part of the king's council, however salutary it might be in some cases, admitted of being ren-

* As the *consilium ordinarium* became more defined in its constitution, the great council appears in a two-fold phase according as it sat in parliament or out of it; in the former alone did it exercise judicial and legislative powers (vide Hale c. 2.); in the latter it had ceased to appear in Hale's time.

† Sir Harris Nicolas's Preface to Rolls of Privy Council, vol. I, p. 4 &c.

dered subservient to the worst passions of political life. It was contrary to the genius of our Saxon institutions, and was resisted by the free spirit of our forefathers, as an unwarrantable stretch of arbitrary power. In the direct exercise of royal prerogative and aristocratic influence, it had a constant tendency to swerve into paths unknown to the constitution, and subversive of the long established rights of judicial independence. And although in an early period of our constitutional history, the weakness of established law required the arm of Government for the security of society, still the whole framework of the constitution of the country having been erected with a view to render law supreme over the throne and over the executive, every effort was made to repress its extravagances, till under the sway of the Tudors, the licence of prerogative defied the control of law. The act of 3 Hen VII. c. i., which established and extended the Star Chamber, obeyed the worst precedents of an infant society, in which the legislature had, probably from necessity, entrusted the executive council of government with direct jurisdiction. Those precedents we must exhibit, as well as the statutes directed against their oppressive consequences, and in them we hope to find an explanation of the institution of the Star Chamber—a tribunal whose excesses were among the prominent causes of the civil wars of the seventeenth century.

Unsuccessful in its attempts to render the courts of common law the instruments of its authority, the Privy Council had nevertheless a fruitful source of influence in the extensive equitable jurisdiction, which was then in being, and to which at first the council possessed an undivided claim. It included, at that early period of our judicial forms, the cognizance of crimes and a general right to interfere with the due course of law. But though the administration of equity was vested, in early times, in the king's council,* there was growing up also from an early period the Court of Chancery which gradually established its supreme power. We need not stop to discuss the antiquity of this equitable jurisdiction† of chancery, but merely its extension from the reign of Edward I to that of Richard II. Chancery down to the time of Fleta, consisted of clerks, who examined petitions and afforded relief by the king's writ. The council was accustomed to borrow its own process from the chancellor, who held the Great Seal, and who, partly from that fact, and partly from the ability from time to time displayed by him, succeeded in securing the

* Palgrave's Essay 3-4.

† Vide Campbell's *Lives of the Chancellors*, vol. i. p. 186.

presidency of the council, and eventually, the right to hold a separate court of appeal. John gave to the justiciary the power on his own authority to issue writs *de cursu*. These writs were then* five in number, but in the next reign they increased to fifty-one. The king's consent was always necessary for special writs of any kind—after the Mad Parliament at Oxford the further consent of the council was required.† Edward I was accustomed to delegate the exercise of his prerogative to the Chancellor and Master of the Rolls by writ of privy seal as well as to the Council.‡ In the reign of Edward II, according to the instance quoted by Lord Campbell,§ the court was in the habitual exercise of its functions, and under Edward III the Chancellor became possessed of ordinary jurisdiction of great importance.

The question now arises as to the Council's relation to and influence upon the Court of Chancery. The original bond of union was in the person of the Chancellor, who presided in both and from whom the process of each originated. Causes pending before the council became for the most part returnable into Chancery to be heard *coram consilio regis in cancellariâ*. Chancery together with the council often based its jurisdiction|| in certain cases on special acts of parliament passed for that purpose. And we have the opinion of Sir Francis Palgrave¶ that it may be

* Viz. those *de recto—mort d'auncestre—novel disseisin—de nativis et fugitivis—de divisis faciendis*.

† Vide Palgrave's Essay.

‡ It was during this reign that the office of justiciary was abolished, and the separate jurisdiction of chancery established.

§ Lives of the Chancellors, vol. i. 206-9.

|| e. g. (1) with reference to the privy council.

27 Ed. III c. 1. *Statute of Provisors* enabling them to take cognizance of all cases of illegal suing in the Court of Rome.

12 Ric. II. c. 2. in all cases of *scandalum magnatum*.

13 Hen. IV. in cases of great riot and public disturbance.

(2) with reference to the Court of Chancery.

36 Ed. III. "if any man that feeleth himself aggrieved contrary to any articles above written, or others contained in divers statutes, will come into chancery, or any for him, and there make his complaint, he shall presently there have remedy by force of the said articles, without elsewhere pursuing to have remedy." Vide Hallam's Middle Ages, vol. III, 246.

2. Hen. 5 st. 1. c. 9. enabled the Chancellor to issue writs of proclamation in cases of murder and bloodshed, exactly analagous to those issued by the council or by parliament.

33. Hen. 6. c. 1. extended this power for the apprehension of fugitive servants, embezzling the goods of their masters, to be exercised nevertheless, with the advice of the chief justices of either bench, or of the chief baron of the exchequer.

¶ Palgrave's Essay on King's Council, p. 25.

considered as fully established, that until a comparatively recent period, the Chancellor never exercised any judicial functions unless when directed by the council or acting by its authority. The ordinary course of events,* and the constant desire of independence, natural to a court of justice in a free country, tended to the establishment of the separate jurisdiction of the Chancery courts. This was consummated in the reign of Richard II, when on the introduction of feoffments to uses without any legal security for the *cestui que use*, the courts of equity undertook to protect him, and by enforcing the earnest appeal to the conscience of the feoffee which was generally inserted in a deed to uses, recognized the existence of fiduciary estates, which remained without the pale of common law. Thus they gained exclusive cognizance over a most important branch of business transactions and established an ascendancy which they have retained to the present day.

What then had become of the authority of the Privy Council? Deprived, as it would seem, in great measure, of the exclusive exercise of either ordinary or extraordinary jurisdiction, the inference would be, that it was confined to the power which alone it had properly inherited from the *consilium ordinarium*, viz the deliberative power, or power of advice. Nor were these courts of law and equity the only rivals to its authority. The Great Council had developed into a Parliament, and the House of Lords in the time of Edward III seemed disposed to resume the old functions of the great body of the aristocracy, and reconstitute themselves the High Court of English Justice, reducing the Council to the position of advisers and assessors, or, as Sir M. Hale terms it, to that of a *consilium in consilio*. The 'faithful and 'discreet' commons also aspired to share in the supreme judicial authority, and instances are recorded of their interference. By the time of Henry V this jealousy had grown till they petitioned that no 'authority of Parliament' should be conveyed to either the Council or the Chancellor, for the purpose of putting any man to answer, contrary to law, without the endorsement of and "the assent and request of the Commons."† Statute law throughout had not been neglected in the endeavour to repress the authority of the Council. Magna Charta itself had laid down as

* The transfer of the Chancery from the exclusive hands of the clergy, in the reign of Edward III, tended to throw the Courts of Chancery more on the side of the people.

† Rot. Parl. IV. 187, Vide Palgrave's Essay. This seems to have been intended to restrain the practice of issuing writs to the Sheriff to make proclamation for any man within the county, to appear before the Council or the Chancellor

a precedent that no freeman should be arrested, imprisoned, or disseised of his freehold, or outlawed or destroyed in any manner except by judgement of his peers or by the law of the land. The 5 Ed. III declared, that no man should be prejudged of life and limb, nor should his lands, tenements, goods and chattels be seized into the king's hands, contrary to the great Charter and the law of the land. The 25 Ed. III c. 4 enacted, that no man should be taken by petition or suggestion to the king and his council, unless it were by writ original at the common law, nor should he be put out of his franchise or freehold, unless he were duly put to answer, and prejudged of the same by due course of law. The 42 Ed. III. c. 3. in reference to persons accused and taken, and caused to come before the king's council by writ, or otherwise against the law, enacted that no man be put to answer without presentment before justices or master of record, or by due process and writ original, according to the old law of the land. These statutes were constantly evaded, but still other abridgements of the council's power were devised. *Auditores petitionum** were established, who soon absorbed their business in reference to petitions in parliament. State business multiplied and withdrew their attention, and finally, the expences incurred induced the suitors themselves to institute their suits, in the first instance, in the courts where they were legally determinable. Thus the decisive power of the council *in foro contentioso* became limited to their influence in the house of Lords as a *consilium in consilio*, to the authority which devolved on them during the parliamentary recess, to the king's delegated right of royalty. Ordinances could be made by the council at the petition of the commons and with the consent of the lords to avoid the necessity of a new law, or they could be made by the king and council, or by the council with the king's consent.

It would be beside the purpose of this article to trace the rapid growth of the power of chancery during the reigns of the three Edwards. It undoubtedly had together with the rise of the commons great influence in settling and defining, for a time and to a certain extent, the authority of the Privy Council. But it was an inevitable result of each minority, and each appointment of a council of Government by the legislature, or by an aristocracy in arms, that the powers of the king's continual council became increased. It was with the long minority of Henry III that its judicial and political authority became established, and we enter

* These were a parliamentary committee consisting of bishops, earls, barons, and judges. They answered in the name of the council, and occasionally referred their business to the *magnum consilium*. Palgrave.

on the path of its ascertained history. From that time downwards its members were the ordinary advisers of the crown, and in the 43rd of his reign Henry III promised to do nothing without the consent of the nobles, selected to be his council.* After 20 Edward I, the justices of the king's bench were no longer members of it, and under Henry V the jurisdiction of the council and of chancery became distinct. The work of separation continued till in the reign of Edward IV the judges declared 'that the four courts were the king's courts and had been so time out of mind, so that no man knoweth that which is most ancient.'†

The reign of Richard II followed by the rise of the Lancastrian dynasty forms an important epoch in our constitutional history. The courts of law and equity were by this time strong enough to restrain the judicial authority of the council, and accordingly we find that from Richard II to Edward VI, greater regularity was observed in its proceedings. Still however the watchful eye of Parliament was ever observant of its conduct, and the evidence which the Rolls and Statute Book afford of the estimation in which it was held, will materially assist in ascertaining its historical and constitutional position. We must however before pursuing any further this part of our subject first advert to the authority, which the Council exercised in the executive administration of affairs. The conduct of Richard had tended to provoke the power of parliament, and to throw all classes of society on the side of his council, with the view of restraining his excesses by their administrative authority. Royal authority in the next reign was weakened by the feebleness of the royal title and by internal divisions, and in the reign of Henry V by the frequent absence of the king. The long minority of Henry VI, was soon followed by the turbulence of the civil wars, and at the accession of the Tudors the council, no longer drawing its influence from the heart of a powerful nobility, became the tool of royal prerogative. During the period which immediately preceded this, we have ample historical evidence of its proceedings and ordinances in the rolls, which have been published by Sir Harris Nicolas, and which extend from 10 Richard II to 13 Henry VI, with some scattered entries for the rest of that reign, and are again renewed late in the reign of Henry VIII from 1540 to 1542. These invaluable historical records afford considerable information respecting the nature and duties of the office of Privy Councillor. The power of appointment seems to have been vested in the crown,

* Spence on the Laws of Europe, p. 538

† 8 Co. Preface xvi. as quoted Spence's equitable jurisdiction. vol. i. p. 334.

restricted by various regulations of Parliament made from time to time as to the duration of its tenure, and by the necessity of making popular selections. We can hardly consider it otherwise than an encroachment on the prerogative, when, favoured by the circumstances of the moment, attempts were made to dictate to the king the appointments to his Council.

The great officers of state and the two archbishops sat of right at the Council board; the primate claiming for himself and his successors to be present at all the king's councils, general, special, and secret.* Daily attendance seems to have been exacted on pain of being fined†, a consequence probably of the high salaries to which they were entitled. The question of their pay engrossed the attention of the council pretty considerably from time to time. In 13 Richard II an ordinance declares that the 'batchelors' shall receive reasonable fees, those of the lords will be regulated by the king and council. In 5 Hen VI the Duke of Gloucester was allowed the enormous sum of 3000 marks from the Treasurer for attendance in council; and an ordinance of 2 Henry VI apportioned their pay to the members of the council according to their rank, and provides a scale of fines for non-attendance in proportion to their pay. An entry of the 28th February 1424 is interesting, as it narrates the form of oath adopted by a Privy Counsellor on taking his seat—'on the 28th day of the said month, 'John Lord of Scroop swore on the holy gospels in the usual form 'faithfully to counsel for the good of the king and realm, and 'was admitted forthwith to the king's council in the presence 'of the Lords, the Duke of Gloucester, the archbishop of Canterbury, the bishops of Winchester, Norwich‡ &c.'

Regulations for the governance of the council often formed the subject of parliamentary debate, and we also find the council laying down strict rules for their own guidance and enforcing their observance by prescribed penalties. In 10 Richard II on the 8th of March, an ordinance was made relative to the transaction of business, which gave to government business the precedence, apportioning to the justices, the chancellor, and the treasurer respectively, whatever related to the common law, to chancery or to the exchequer, reserving for the king's consideration all matters which could not be expedited without his special consent, and referring all other important business to be determined by such members of the council as might be present, with this exception that, as no grant to the detriment of the king's

* Rolls of Privy Council, vol. i. p. 3.

† Sir H. Nicolas pref. to Rolls of Privy Council, vol. i. p. 5.

‡ Ibid vol. III. p. 147.

revenue could pass without advice of the council, (a necessary regulation when we regard the authenticated accounts of Richard's extravagance), such advice should not be given without the consent of the dukes of Guienne, York and Gloucester, and of the chancellor or of two of them. To the keeper of the Privy Seal together with such members of the council as might be present, was allotted the duty of examining the various petitions of less moment which should from time to time be presented by the people.

In 21 Richard II, we have an early precedent for the council interposing in ecclesiastical matters, and ordering general prayers and thanksgivings in all churches throughout the kingdom for the soul of the duke of Gloucester who had confessed and repented of his treason before his death. From the moment of the accession of Henry IV, the difficulties which surrounded the throne were immense, and with the exception of one short interval not long before the close of this reign, the title of the house of Lancaster can hardly be said to have been thoroughly acquiesced in, till the battle of Agincourt revived the glories of the two Edwards, and inspired a general satisfaction. The alienation of France in consequence of the death of Isabella's husband Richard II—Scotland for her own ends keeping alive the delusions respecting his hiding place; the rebellions of Glendower, Mortimer, and subsequently the Percies; the animosities of the Lollards and Churchmen, presented a stormy scene of politics to the occupant of a throne whose very title was with justice disputed. The object of Henry was to put himself forward as the champion of order—to make as it were the factions and institutions of the country find in his policy the security for their existence, whatever resentment they might harbour against him. Though Henry played his difficult game with consummate ability and tact, it was impossible but that under such circumstances the more liberal element of constitutional government should flourish and become established. We are not concerned with any of these, except so far as the greater regularity of the council's proceedings and the greater deference paid by the sovereign to its political influence, may have affected the general welfare of society. The limits of its judicial authority were now becoming as nearly ascertained, as the nature of the times would permit; its executive functions were also brought prominently forward and resolutely maintained. The registers of its proceedings disclose the manner in which it carried on the public business with regard to revenue, the internal government of the country, the management of foreign affairs, deciding upon petitions, and listening to disputes on questions of court etiquette.

The key to the position of the Privy Council at the commencement of this reign is to be found in their settled, growing reluctance to meet parliament for supplies* if it could possibly be avoided. Several attainders had followed upon the recent successful usurpation of the throne and large estates had fallen to the crown. These together with the ordinary revenues of the kingdom afforded reasons ample enough to have justified the commons in inquiring into grievances and above all in raising the inconvenient question of the disposal of the public revenues. Whether this question, so far as regarded the forfeited estates, had become a personal one to any members of the Council or not, it is certain that a reluctance on their part to meet parliament was the cause of great disasters at the commencement of this reign, and was a sufficient pressure on their administration to prevent them from establishing any undue ascendancy. They commence together with the Lords spiritual and temporal, and therefore forming the Great Council, on the 9th of February 1400 with an agreement that the peers should grant the king an aid, and that letters of Privy Seal should be sent round to the abbots throughout the kingdom for that purpose. They apportion almost every expense of the king's household, arrange the outlay on the retinue and attendance of queen Isabel who was now leaving England; the public purse seems to have been entirely abandoned to them and it is impossible to charge them with either extortion or profusion.

In regard to the rebellion which broke out in North Wales Sir Henry Percy appears as the discontented general whose troops are ill paid, whose schemes are frustrated and whose engagements are broken—all which he directly charges upon the Council in no measured terms, in consequence of their having in modern phraseology starved the war. During the month of May† 1401 the council receive incessant complaints of the non-payment of moneys, at the commencement of June‡ he states his utter inability to bear with the expense any longer, and in a month afterwards§ he complains that the king had enjoined payment upon the Treasurer, that the Treasurer had promised payment if the Council consented, but that the Council had broken their promise. He then charges them with mal-administration and ignorance of the importance of keeping the marches

* Sir H. Nicolas Pref. to Rolls of Privy Council vol. i. p. xxxiii.

† Rolls I. p. 150.

‡ Rolls I. p. 152.

§ Rolls II. p. 57.

and adds that he has written to the king to refuse any further responsibility in the matter—those who withhold supplies must bear the blame.

The disgust of Sir Henry Percy is but the commencement of the Council's difficulties. Next year* on the 3rd of February 1402 they appointed persons to superintend the payments to be made out of the subsidies granted to the king in the last Parliament. On the 15th of May the king wrote from Berkhamstead to the Council to express surprise that the marriage portion of his daughter the Princess Blanche had been withheld and to desire instant payment. The same month Richard of York demanded payment for his retinue whose term of service had expired, and who would disband unless paid.† The Prince of Wales also sent the same month from Shrewsbury demanding immediate supplies; ‡ no more favorable opportunity would occur for suppressing the rebellion, but his soldiers refused to remain unless they had their pay. Still the Council declined to summon Parliament, but they requested in the king's name loans from the bishops, abbots, priors, knights and others. The amount obtained did not remove the pressure of pecuniary difficulties. The earl of || Northumberland wrote on the 30 May 1403 that Ormeston castle in Scotland would be his own on the first of August—he has hostages for his security—unless it should previously be rescued by the French who were already making preparations for that object. On the 26th of June he followed up the application by a letter to the king charging the council with withholding payment against the royal command, and intimating that the honor and chivalrous renown of the kingdom required that the expedition should not be frustrated. A fortnight afterwards the king wrote to the Council§ commanding payment for the retinue of the Prince of Wales, and a week afterwards he announces the rebellion of Sir Henry Percy. The irritation appears to have arisen quite as much, if not more, on account of the Council as of the king. There is a jealousy of the Council's power, a suspicion that poverty was not the only ground for withholding supplies; and when we consider the impolicy of exciting the enmity of the powerful house of Northumberland in the difficulties by which the Crown was

* Rolls I. p. 179.

† Vol. I. 187.

‡ II. 62.

|| II. 203.

§ II. 206.

beset, the 'sorry battle of Shrewsbury' must be regarded as the fault or misfortune of the Council's administration.

Other notices occur during this reign of the Council's fiscal regulations; on a subsidy being granted they appear to apportion the sums which shall be devoted for specific purposes,* such as the garrison of Calais—the marches thereof—the king's household, wardrobe, &c.—the repayment of money which had been advanced to the king, and also 'to avoid the clamour of the people.'

At other times they borrowed money upon their own personal security the lords of the Council going down for that purpose to their respective counties, where they exercised local influence. The king does not seem to have retained during this reign much control over the public purse. In 6 Henry IV (May 31. 1405) he wrote to the Council commanding payment to the Prince of Wales as Warden of the Welsh Marches of all the money appointed for the safeguard of Wales. This brought within the fortnight from the Council an answer specifying the sums which they had raised—the purpose for which they had been expended—and the impossibility of complying with the commands of the king. Such were the exigences of the council and such the weakness of the executive with a contested title to the throne, that it was with the utmost reluctance that the ministers of the crown brought themselves to face Parliament and renew from time to time that huckstering over grievance and supply which was for a long time the safeguard of our constitutional liberties.

The administrative functions of the Privy Council were exercised to the utmost during nearly the whole of this reign. It seems that almost from the accession of Henry IV, the Council felt that in the extreme political confusion which ensued they must assume the whole direction of government.

Accordingly they brought the whole state of affairs under the consideration of the king with their advice as to the treatment of Richard, supposing him still alive—the necessity of a general pardon in some cases to prevent malicious prosecutions—of a proclamation in others empowering justices and sheriffs to imprison all offenders till information should be given to the king and council—of guarding the castles on the sea coast—of immediately assembling the navy, and of taking decisive steps to secure the due administration of justice. The Council also determined that a person should be appointed to report to the king the advice of the Council. It does not appear

* Rolls. vol I. p. 331. 11 Hen. IV. &c.

whom they thought fit to entrust with this office although it was one which naturally conferred the highest distinction. Throughout the reign of Henry IV the Council appear to have regulated everything from the suppression of the rebellion of Hotspur down to the minutest arrangements respecting the retinue and property of Queen Isabel, the widow of the deposed sovereign. They order every general from the Prince of Wales downwards; they advise the king it is true, but their tone at times rises to commands. In 8 Henry IV, they undertook to reform the royal household, and they requested the king to remove after Christmas to some place where it would be most convenient, to make such ordinance for its governance as might tend to the pleasure of God and of the people.*

With reference to the Council's rights of jurisdiction we may give the following instances. In the first year of this reign, December 1399, two petitions are the subjects of decisions by the Council one from a minor, son and heir of the Duke of Norfolk, praying that a sum should be allowed for his maintenance out of two lordships in Wales; the other from John Skelton praying that the Council would direct the treasurer and barons of the exchequer to account with him for wages due. In 8 Henry IV†, the Mayor and aldermen of London brought an accusation against several persons, of using unlawful nets and resisting the subconservator of the Thames and Medway. They pleaded guilty and were commanded to surrender their nets to the Mayor and replace them by others according to the standard of London. In 12 Hen. IV there is a clear indication of the tendency to adopt arbitrary proceedings on the part of the Council. A man named Edmond Leversegge had claimed the manor of Frome Braunche with the hundred of Frome in right of his wife. The Council ordered him to remove his wife and family out of the said manor and hundred within one month next ensuing, and not allow them to re-enter till next Easter; they further order him to attend daily at the Court of Chancery and not to depart without the permission of the Chancellor under penalty of 1000 marks.

In 13 Henry IV there is a letter from the king to the Chancellor in which, although the subject closely affected the state of foreign affairs, the Council is not once mentioned, commanding him to renew certain letters of marque granted to John de Waghen, who had been defrauded by two merchants of Leyden and Delf,

* Rolls I. p. 1—10

† I. p. 298.

against the subjects of the Duke of Bavaria, Count of Holland and Zealand, justice not having been rendered by the said Duke. We find petitions sent up from all quarters; one especially from Ireland to the king and Council praying against all manner of eyres,* and complaining of general misgovernment. The throne was generally the quarter to which petitions were addressed and they were returned with the answer 'le Roy ad granté, le Roy le voulé', or that the king had referred them to the Council to do therein what the case required, or that the king had granted it with consent of the Council.

The minutes of the Council in the early part of the reign of Henry IV throw some light on the manner in which the criminal jurisdiction of the Council was extended and confirmed. In times of great civil commotion, as we have before observed, the law was not strong enough to vindicate itself. The common people became insolent (*fiers*), grand juries refused to present and it became necessary that, as in high quarters the example of rebellion had been set, so the re-establishment of order should be secured by the exertions of Government. Accordingly offenders were summoned before the king and Council, nor were they liberated again till their conduct had undergone an investigation by the ruling authorities. A proclamation was issued in which the justices and sheriffs were ordered to suppress riotous assemblies and imprison the offenders, until information should be given to the king and his Council. There are times in the history even of a people inured to free government and habits of self-control when the security of society requires that the rights to independent justice shall be temporarily dispensed with. It was thus that the direct criminal jurisdiction of the Privy Council acquired validity, and precedents for future violations of the great charter in its most essential clauses were originated and established.

One point of minor importance remains with which we may conclude our slight sketch of the varied subjects brought under the notice of the Council; a question of court etiquette. In 6 Henry IV two disputes on this subject arose, the earl of Warwick claiming precedence over the earl Marshal, and Lord Grey over Lord Beaumont which is said to be the earliest dispute of this nature between *barons*. They were decided in favour of lords Warwick and Grey, but in 3 Henry VI the earl Marshal† again put forward his claim and the dispute was terminated by admitting him to the Dukedom as heir to his father.

* II. p. 45.

† See note Sir H. Nicolas, Rolls II. p. 105.

This was the range of the Council's authority as it was established at the accession of Henry IV. In the next reign, during which the sovereign was so often absent from the country, leaving the Council sole guardian of its honor and safety, that authority became more complete and consistent. Several instances occur of the council's arbitrary interference with the liberties of the subject. Some foreign merchants residing in London were offered the alternative of subscribing loans to the sovereign* or of being committed to prison. They chose the latter and were released only on complying with the demands which were made on them. An individual case is presented in the fate of Sir Hugh Ansley who was committed by the Council† to the Fleet and his lands forfeited for remaining in England when he had engaged to serve in France.

In entering upon the reign of Henry VI, we must allude to the registry of the council's ordinances and proceedings known as the 'Book of the Council'. The MSS which formed the register consisted of several rolls of parchment and by some means or other became the property of Sir Robert Cotton and they now form two folio volumes in the Cottonian Library. The effect of their having been thus alienated from their original depository, however genuine and authentic they may be, is to destroy their value as legal evidence.‡ The records extend over the fourteen years between the 9 Henry V and 13 Henry VI, but from that time till nearly the end of Henry VIII's reign the registry is discontinued. The loss is supplied in some measure by original minutes taken during its meetings which have been preserved, extending from 15 Henry VI to 22 Henry VI—a few fragments only of 24 Henry VI remaining.§ There is also an important journal|| of the proceedings of the ambassadors who were sent to the marches of Calais to treat for peace with France, through the mediation of Cardinal Beaufort and the Duchess of Burgundy. From these sources the history of the Council is supplied, but from 35 Henry VI to 32 Henry VIII (1540) it is entirely lost. It would be impossible to follow out the history of this reign, as it is given to us in the records of the Privy council. The infancy of the sovereign, the insufficiency of his title

* Rolls vol. II. p. 165-6.

† p. 102.

‡ V. pref. v.

§ p. vii.

|| See Appendix V. 335, They were the Cardinal Beaufort, Duke of Norfolk, Earl of Oxford, and others, and the journal extends from 26 June 1438, to 10 October 1439.

still attracting public attention, the ambition of the dukes of Bedford and Gloucester, the military operations of the former in France, the rivalry of the latter with Cardinal Beaufort, and the manner in which such powerful and rival statesmen complicated our foreign relations, called forth the utmost energies of the council. They began by disputing the right of the Duke of Gloucester, who aspired to act as Protector of the realm, to open and dissolve Parliament without their consent. The duke yielding, Parliament appointed the duke of Bedford as Regent or Protector, though in his absence the duties were confided to the duke of Gloucester. These the Council undertook to limit and define. The Council were also entrusted by Parliament with the disposal of wards, marriages and farms belonging to the crown, and with the power of inquiring into lunacy. Next year an ordinance was made with the obvious intention of securing speedy and impartial justice. Every bill presented to the Council was to be read on the Wednesday and an answer given on the Friday. If the case was determinable at common law the Council were not to interfere except on the ground hallowed by the old precedents of the constitution 'of might on one side and unmight on the 'other.' Every facility was afforded of suing *in formá pauperis*. The Clerk* of the Council selected the poorest suitor's bill which was to be read and answered—one of the king's sergeants being sworn to give without fees his best assistance under pain of dismissal from office. Vigorous measures were adopted by the Council to prevent the Court of Rome from filling English bishoprics without the king's consent. It is impossible to read the records of the Council during the early years of Henry's reign without admiring the tact, resolution and sagacity with which the Council upheld the government. Home and foreign politics were both of the stormiest character, but whatever difficulty they experienced from the duke of Gloucester's rivalry with Cardinal Beaufort and disregard of themselves, they found ample support in the conduct and character of Bedford. That prince's influence was never exercised in obstructing the policy of the Council. The utmost harmony appeared to subsist between them. In answer to a message by them in consequence of the jealousy which they began to entertain of the two royal dukes, especially of Gloucester, interfering between them and the unfettered exercise of the delegated royal authority, Bedford answered that he would in all things be advised and ruled by them as submissively as the poorest subject and 'it afforded him the greatest

* Rolls of Privy Council, vol. III p. 19.

'gladness that he ever felt in his heart to see the king in his 'tender age to have so substantial and so true a council.'* The example had its effect upon Gloucester, but not until he had ejaculated 'let my brother govern as him lust while he is in this 'land, for after his going over into France, I will govern as me seemeth good.'

There are several instances scattered through the volumes of Sir Harris Nicolas, which disclose the relation of the Great Council to the Ordinary Council.† We select one which occurred in 7 Henry VI, when a Great Council was assembled at Westminster ‡ on the 15th of April. It seems to have been a deliberative and executive assembly, exercising authority under circumstances which the Privy Council deemed too important and critical for their unsupported decision. In the instance we select the difficulties, which appealed for their solution to the more authoritative voice of the Great Council, affected the dignity and power of the crown, the financial condition of the country and the conduct of its military operations. Every thing therefore, which the power of the purse eventually assigned to the commons in Parliament, the Privy Council originally referred if possible to the Great Council or the general assembly of lords, spiritual and temporal, whose twofold and sometimes threefold character as the members of these separate councils attests that marked preponderance of the aristocracy, which has so signally influenced the political and social system of England. The coronation of the king in France was the first subject of attention, a deficit in the council revenue to the extent of 20,000 marks was the second, and a third was the probable failure of the siege of Orleans by the earl of Salisbury in consequence of desertions, which the Council were now called upon to remedy by new contingents by land and by sea. There seems to have been some strong feeling at work in the public mind to prevent the Privy Council from assuming the whole authority of the executive in important business. This led during its double rule in France and England to the inconvenient and fatal mistake of neutralizing its influence by first establishing two separate boards in the two countries, and then rendering the consent of the whole body necessary in critical or important matters, thus paralyzing the hand of Government.§

* Rolls of the Privy Council, vol. III. p. 39.

† Vide I pref. xxvii. and p. 102, xxviii. and p. 107 &c. &c.

‡ III pref. lxii. and p. 322.

§ Rolls of the Privy Council, vol. iv. pref. x.

Before we finally quit the subject of the Privy Council under the Henries we must revert to the subject of the parliamentary opposition which it encountered, and again call the statute book in evidence as to its general position in the public mind. Parliament and the country viewed its judicial authority and its encroachments with the utmost jealousy, and bitterly complained of its frequent interference with the due course of common law. The administration of equity involved a right to this interference, and originally vested in the king's council.* The enactments which restrained it are public protests of the sanctity of the old laws and usages of the country. They are elements in the history of the long divorce between the courts of law and equity, and deserve the utmost attention in fixing the constitutional position of the Privy Council. We have appealed to the institutions of Saxon times to throw light on the position and influence of the sovereign's Privy Council. The various efforts made by Parliament to render it obedient to law, or in other words, to reduce it to its proper constitutional level were extended to govern if possible the nomination of its members, the rule of its proceedings, and the limits of its authority. The rolls of Parliament shew how large a share of public attention the council absorbed; and the expedients adopted, while they evince the resolution of the commons, shew also the difficulty of the struggle to which they were now committed.

The close of Edward III's reign is the point from which we digressed to review the executive functions of the council. From this stage in English history we may date the growth of parties and party spirit. The discord of Churchmen and Lollards and of the rival supporters of different nobles and popes, the jealousy between Edward's sons and their opposition to his successor were, both at the Council board and in Parliament, the constant source of struggle. The Commons were thereby roused and encouraged to secure to themselves a greater share of political influence, and besides improving the opportunity for the establishment of several constitutional principles, they constantly directed their efforts towards controlling the conduct of the Council. Viewing them as entrusted with the executive power and with a constant dread of their tendency to trespass beyond their proper bounds, Parliament interfered with minute, and as it would seem, vexatious regulations. Thus in 50 Edward III † 'considering the mischiefs of the land they shew to the king

* Palgrave's *Essay on the authority of King's Council.* sec 3, 4.

† Rot. Parl. ii. 322.

‘ and the Lords of Parliament what would be for the honor of
 ‘ the king and for the advantage of the whole land, which is sore
 ‘ troubled in different manner by many adversities as well by the
 ‘ wars of France and Spain and Ireland as of Guienne and Bretagne
 ‘ and other places, and also that the officers who have been accus-
 ‘ tomed to surround the king are not sufficient for carrying on so
 ‘ responsible a government. Wherefore they pray the council of
 ‘ our Lord the king be restrained from transacting any import-
 ‘ ant business without obtaining the consent and advice of all
 ‘ members who are to number ten or twelve in great matters, six or
 ‘ four in those of lesser import and according as the case requireth.
 ‘ They pray also that six or not less than four be continually sitting
 ‘ as the king’s council. And our Lord the king considering
 ‘ the said request to be honorable and very profitable to him
 ‘ and to his realm consented to it. Provided always that the Chan-
 ‘ cellor, Treasurer and guardian of the Privy Seal and all other the
 ‘ king’s officers shall be competent to do and perform the business
 ‘ which affects their offices without the presence of the said coun-
 ‘ cillors. And it is ordained and agreed that such as shall be ap-
 ‘ pointed councillors from time to time be held to guard this ordi-
 ‘ nance and to do right to each according to their powers. And
 ‘ further it is ordained that they take nothing of any one by pro-
 ‘ mise or otherwise upon pain of forfeiting double of what they
 ‘ have received besides the costs and expences of the party ag-
 ‘ grieved: and to our Lord the king they shall fine six times the
 ‘ amount which they have received. The cognizance and jurisdic-
 ‘ tion of anything shall be to the king and his sons, having taken
 ‘ to them six prelates and lords at the suit *de partie donante* and ne-
 ‘ ver before other persons nor in other manner; but if a man make
 ‘ a complaint and cannot prove his charge he shall incur the penal-
 ‘ ty ordained by statute 38 Edward III.’

The next year* they pray the young king who had just ascend-
 ed the throne that it may please his Highness by the advice of all
 the Lords of Parliament until he should be of full age to under-
 stand the good and evil (men); to grant that all councillors and
 officers hereafter elected be made and provided by Parliament.
 This was a virtual transfer of the executive into the hands of the
 two houses and in common with similar attempts at other periods
 of our history obtained but a transient success. It was in times
 when the authority of the sovereign was weak that parliament
 put forward its pretensions to regulate appointments to his
 council. Thus we find a precedent for the present petition in

* 1. Ric. 2. Rot. Parl. iii. 16.

5 Edward II c. 13* where they had succeeded in obtaining as a part of statute law 'we do ordain that all evil counsellors shall be 'put away and removed altogether so that neither they nor 'other such be near him nor retained in any office of the king, 'and other more fit people be put in their places.'

In tracing the efforts of the Commons to control the nomination of counsellors and their continuance in office we are watching the early growth of the constitutional principle, now matured and definite, of the personal responsibility of ministers to Parliament. The ever changing politics of the moment dictated the course to be pursued, but the view of the English people to establish their freedom was constant. When prerogative was strained by the King personally, they were glad to find a counterpoise by supporting the authority of the Council. When prerogative was weakened by the incapacity of the sovereign, they endeavoured to secure a supervision and virtual supremacy over the person and acts of each individual councillor. Thus in 13 Richard II† on the 20th day of Jan. 1389 there is an entry which is itself sufficient to shew that during this feeble minority the Commons had not been idle. The Bishop of Winchester, Chancellor of England, and the Bishop of Saint David, Treasurer of England, and all the lords of the Great Council of the King, besides the Clerk of the Privy Seal prayed to our Lord the king to have consideration for the great travail and costs that they have continually had and suffered during the time that they have occupied the said offices and to discharge them accordingly, and find other good and sufficient men in their stead. And thereupon the chancellor surrendered the great seal, and the treasurer the keys of the treasury, to the king, and the king received them and discharged the said counsellors from their offices. And he dismissed also the Lords of the Council. And when they were dismissed they prayed openly in Parliament that, if any one had aught to complain of them in respect of anything they had done during their tenure of office, he should directly shew it to the King in Parliament; thereupon the Commons prayed for time to consider and then, being questioned by the Duke of Lancaster at the command of the King, said plainly that they had diligently enquired and conferred together of the said matter and that they neither knew of nor could find any cause of complaint against them or to say anything against them, but that it seemed to them that they had done very well and deserved very great

* See Stat. of the Realm.

† Rot. Parl. iii. 258.

gratitude for their services in the said offices, and thereupon they thanked them greatly in full Parliament. And besides, the prelates and lords of Parliament when questioned by the King said—they knew nothing but good of them; and that they had well and duly done in their said offices. And immediately after our Lord the King said openly—‘that the said officers and ‘councillors had well done in their said offices, and he held them ‘good and loyal.’ Thus the Ministers of that time received an abundant measure of Parliamentary approbation, but the necessity of bringing their conduct publicly forward was proof of their temporary depression. Whatever may have been the real motives on either side, it is clear that the Commons were not so entirely satisfied as would appear by the entry which we have quoted; for in the same year (13 Richard II) and a little further on in the Rolls* we find one of their numerous complaints of arbitrary interference with the common law. ‘The Commons ‘pray that neither the Chancellor nor the King’s Council after ‘parliament is prorogued may make any ordinance contrary to ‘the common law and ancient customs of the land and the ‘statutes and that no judgment be reversed without process of ‘law.’

The King answered—‘Let it be as it has been hitherto, so that ‘the Regality of the King be saved, and if any think himself ‘aggrieved let him shew it specially, and right shall be done him.’

The Commons also† pray that neither at any man’s suit nor suggestion shall the King’s lieges be made to come by writ ‘quibusdam de certis’, nor by any other such writ before the Chancellor or King’s Council, to answer in any manner for any thing of which recovery may be had by common law or otherwise by statute, upon pain of the Chancellor’s forfeiting £100 to the King, and the clerk who shall write the writ shall lose his office in Chancery without ever being restored to it.

Richard replied that he would preserve his royal rights as his progenitors had done before him. These answers evince a sufficiently arbitrary spirit and throw some suspicion on the prodigious hurry with which the Council had this very year challenged the criticism of both houses of Parliament.

We have before alluded to the extreme jealousy with which Parliament regarded the judicial encroachments of the Council, and may therefore now content ourselves with only quoting one more entry at least of this reign. In 2 Richard II there is

* Rot. Parl. iii. 266.

† Rot. Parl. iii. 267.

another proof of the aversion of the Commons to any compulsory process issuing out of the Court of Chancery or the Council.

It must be admitted that their patience was being tried to the utmost. It was during this reign, as we learn from an entry in the Rolls of Parliament of 9 Henry V, that John de Waltham, Master of the Rolls, invented the clause of 'hoc sub pœnâ centum librarum nullatenus omittas' to be added to the writ of 'quibusdam certis de causis.' It is difficult to exaggerate the indignation of the Commons and the abhorrence with which the name of the inventors came to be regarded. Yet in reality there was no great hardship inflicted. The fine was, according to Mr. Hallam, rarely enforced; if the party did not put in his appearance, he was brought into contempt and could be subjected to arrest as at present. But the Commons petitioned* that no writ issue out of Chancery, nor secret letters of Privy Seal directing any one to be brought before the King's Council or elsewhere to answer for his freehold or anything appertaining to the same as has been ordained hitherto; but according to the common law of the land allowed to take its proper course.

Soon† after the accession of Henry the VI. the Commons prayed that all writs or letters of Privy Seal of our Lord the King directed to different lieges of the King to appear before our Lord the King in his Council or in his Chancery or in his Exchequer, under certain penalty specified in them be entirely for time to come disused, and that every subject of the King be treated according to the rightful laws of the land anciently in use. Let no such writ (so ran the answer to the petition) be made except in case it appears necessary, and that at the discretion of Chancellor or Council of the King for the time being.

In 8 Henry IV ‡ the Commons drew up a list of regulations for the observance of the council which occupies several pages of the rolls. First, they entreated the king to name six councillors pleasing to God and agreeable to the people, to consult with them and retain them till the next parliament and always govern by their advice. They also endeavoured to guard against court intrigue by warning the king not to believe ill of one councillor at the suggestion of another, but to require proof failing which the accuser should be punished as an example to others. With regard to complaints carried up to the king, they were to be referred to the Council and by them to be determined by common law, if

* 2 Ric. II vid Rot. Parl. iii. 445.

† 2 H⁶ v⁴ IV vid Rot. Parl. iii. 471.

‡ Rot. Parl. iii. 585-9.

so determinable. Pains and penalties were prescribed against any one, man or woman, who should abuse his influence for his own private advantage or interest. Thirdly, that the King should give to his council full authority and governance over his house and chambers and wardrobe and all other places and offices which absorbed the revenues of the kingdom. Fourthly, no one should receive gifts of the King until the next Parliament, on pain of forfeiting double their value. Fifthly, two days in the week were to be set apart for the petitions of the people, and a heavy penalty was enacted against those who procured any petition to be carried up on any other day—all to be decided by the advice of the Council. Sixthly, that the King command his council not to procure any matter to be brought before them determinable at common law, except for reasonable cause and by the advice of the Judges.

During the reign of Henry V. we find few entries on the Rolls having special reference to the Council. The mind of the nation was absorbed in the French war, and the revival of the glories which Crecy and Poitiers had thrown round the generation of their fathers. It was in this reign that the Commons again so far resigned their principles as to settle revenues on the King for life. Still, however, there is a renewal of Parliamentary protest against the Privy Council extending their extraordinary jurisdiction over cases, which properly fell beneath the cognizance of the Courts of Common Law.* The death of Henry V, and the accession of his infant heir, placed the Council once more prominently before the eyes of the nation and rendered it the centre of politics, action, and intrigue.

The Duke of Gloucester was in the kingdom and at the moment was chief of the Royal house. At no period of his life did this Prince manifest the tact, influence, and patriotism which marked the character and conduct of Bedford. Constantly intriguing at home and abroad, defiant to Parliament and of a temper the reverse of conciliatory, he was incapable of wielding any serious influence over the rival interests which strove round the throne of an infant. In the first year of this reign, a Petition† was carried up to the Duke of Gloucester relative to the

* Rot. Parl. iv. 189.

† 3 Henry V. vid : Rolls of Parliament IV. 84, vid : also Palgrave's Essay p. 48. It is from this entry that we learn that John of Waltham, Master of the Rolls, invented the subpoena—all the evils resulting from the process are set out at length and as a remedy it was proposed that any person harassed by the writ in a matter determinable at common law should have an action for damages £40 against the person suing out the writ. In 9 Henry V. there are entries of similar complaints equally fruitless.

mode of procedure before the Council. To the most honorable and puissant Prince Humphrey Duke of Gloucester, Commissioner of our Sovereign Lord the King to hold this parliament, the poor Commons of England assembled together pray that it may please your gracious worship with the assent of the lords spiritual and temporal, for the support and comfort of the said Commons to grant the following petitions.

That it be ordained by statute in this present Parliament, that no man nor woman and subjects of our Lord henceforth be taken, put or held to answer before the Council or Chancery of our said Lord the King, nor elsewhere at the suit or complaint of any person of any matter of which remedy or action is provided or done at the common Law; and that at no writ or letter of Privy Seal called writ or letter of Subpœna of our said Lord the King or of his heirs for time to come shall issue against any one at any time: to appear in the said Council, Chancery or elsewhere at the complaint or suggestion of any one, before that the complainant puts in a bill containing the whole matter of the complaint and grievance, such bill to be specially examined and approved by two justices of either bench, who shall certify that the complainant cannot have remedy or action at common law.

After certain technical regulations, the petition proceeds to specify a fine of £20 to be paid by the plaintiff, half to the King and half to the defendant, if he failed to prove his grievance. The Court was to have power to award damages to the defendant for his costs, labour and vexation. And if any writ or letter of Privy Seal shall issue to the contrary, it shall be void and of none effect. To this Petition the King gave an evasive reply, and referring to the Statute 17 Richard II. ordered that it should be put in due execution.

In 10 Henry* VI the Commons prayed that no person of whatever estate or condition may be for time to come at the suit of the King or of any one else taken or put to be examined in Parliament of any matter or thing touching his freehold or inheritance in any case. To this it was replied in words rarely heard at the present day '*Le Roi s'avisera.*' The Act of 31 Henry VI c. 2 indicates the growing insecurity of justice and the tendency of events to throw into the hands of the Council greater judicial power. 'If any writ or letters of Privy Seal be directed to any person to appear before him as aforesaid, unless he keeps the day of appearance therein stated, the Chancellor

* Rot. Parl. vol. iv. p. 403.

shall have authority to issue a writ to the Sheriff of the county where the offender resides to make proclamation for him. In case of default within a month, a Peer shall forfeit all offices, fees, annuities, and other possessions. The Chancellor would then issue another writ, and in case of default, he shall lose his name and estate of lord—all forfeitures, however, to be for the life of the offender only. Any other person shall suffer a penalty at the discretion of the two Chief Justices. But it was even now carefully provided that the Council should have cognizance of nothing determinable at Common Law.'

The various entries which we have selected may suffice to shew the temper of the Commons with respect to the Council's jurisdiction, and their jealousy in favor of the common law; and, on the other hand, it is easy to detect the inadequacy of the ordinary tribunals and the necessity of some supreme judicature. Down to the middle of the fifteenth century the difficulty increased till it was lost in a great social disturbance. The civil wars which then sprung up and raged with so much violence for a quarter of a century, have obliterated all traces of the Constitution and functions of the Council during that period. The 'Book of the Council' was discontinued from the 13 Hen VI, nor was it again commenced till late in the reign of Henry VIII.* From Edward IV to Henry VII. nothing whatever is known of its proceedings;† and the re-appointment of a clerk to register its acts and decrees leads to the inference that all formal entry of them had previously been discontinued. The wars of the Roses form a blank in English History, which separates the rigours of aristocratical influence from the tyranny of regal power: and whatever may have been the social inequality and oppression of the former, they were insignificant evils compared with the judicial persecutions and arbitrary spirit of the house of Tudor.

The well-known Act of 3. Henry VII c. 1. is of especial importance in tracing the history of the King's Council. The abuses and crimes of the Court of Star Chamber, which have rendered the name infamous in English history, have thrown back in some respects an unmerited but not unnatural odium upon the Statute which confirmed and enlarged the jurisdiction of the Council. The Council sitting in the Starred Chamber was a name well-known from the time of Edward III and associated with the trial of criminal cases, as the Whitechamber was with the trial of civil.

* 32 Henry viii.

† Sir H. Nicolas pref. to Rolls of Privy Council vol. vii. p. iii. vid: also Palgrave Essay on King's Council.

This enactment is intituled 'an Act giving the Court of Star Chamber authority to punish divers misdemeanours' which it immediately proceeds to enumerate. It was a rapid stride towards centralization, and denotes the anxiety of Government to bring its own vigilance and authority to bear directly on the maintenance of public peace—a necessary step during the demoralization consequent on the wars of the Roses. Unlawful maintenance, the giving of signs and liveries, the 'outruel demeaning of Shrevys in making of panell and other outrecol returns', the taking of money by juries, the prevalence of riots and unlawful assemblies, were the evils which the Statute avowedly sought to redress. They bore witness to widespread social disorders, whereby in the words of the Act 'the polacye and good rule of this realme is almost subdued,' and as nothing was found by inquiry* the result was that the 'Lawes of the land take litell effecte' to the encouragement of murders, robberies, perjuries and the general insecurity of life and goods. The Act therefore proceeded to give the Chancellor and Treasurer for the time being and the keeper of the King's Privy Seal, or two of them, calling to them a Bishop and a temporal Lord of the King's most honorable Council, and the two Chief Justices of the Courts of King's Bench and Common Pleas, or two other justices in their absence, upon bill or information put to the said Chancellor for the King or any other, against any person for any misbehaving afore rehearsed, authority to call before them by writ or privy seal the said misdoers and then and other at their discretion to whom the truth may be known; and such as they found therein defective to punish them after their demerit after the form and effects of the Statutes passed for that purpose in like manner as they should and ought to be punished if they were thereof convicted after the due order of law. It will hardly be denied that this discloses a state of things which called for the summary interference of the strong arm of Government. That Parliament was sincere in its endeavour to repress these disorders is clear from their immediately following up this Act by another, which after enumerating the murders which were now of common occurrence, proceeded to enforce the duties of Coroners, to compel them to hold inquests on pain of being fined, and to amerce the townships for the escape of the offender. The enlarged jurisdiction of the Council arose from the disturbances of the period, and as it acquired greater stability from lapse of time, the Court of Star Chamber which now engrossed a wide

* Kennett's History of England, vol i. p. 594.

sphere of criminal jurisdiction was separated off from the Privy Council.

We may here quote the opinion of Lord Bacon* on the authority of the Star Chamber which he says 'before subsisted by the ancient common laws of the realm and was confirmed in certain cases by the Act of Parliament. This court is one of the safest and noblest institutions of this kingdom. For in the distribution of courts of ordinary justice, there was reserved to Chancery the prætorian power for mitigating the rigour of Law in cases of extremity by the conscience of a good man; there was nevertheless always reserved a high and pre-eminent power to the King's Council in causes that might in example or consequence concern the State of the Commonwealth which if they were criminal, the Council used to sit in the chamber called the Star Chamber, if civil in the Whitechamber, or Whitehall, and as the Chancery had the prætorian power of equity, so the Star Chamber had the censorian power for offences under the degree of capital. This court of Star Chamber is compounded of good elements, for it consisteth of four kinds of persons—councillors, peers, prelates, and chief judges. It discerneth also principally of four kinds of causes—forces, frauds, crimes of various stellionate, and the inchoations of middle acts towards crimes capital. But that which was principally aimed at by this Act was force and the two chief supports of force, combinations of multitude, or maintenance and headship of great persons.'

We have thus arrived at the era of the Council's greatest Parliamentary triumphs, which had been chiefly facilitated by the recent growth of social and political disorders, but at the same time did not contradict the tendency of its whole career. Its constant struggles for supremacy encouraged by the precedents of its early history, and the consciousness of wielding the power of the executive are the subjects of many leading dramas in our constitutional history. The question has been started whether Parliament was the aggressive party, or whether the Council was encroaching beyond limits which had been already assigned to it. It is not without its importance as a question nearly allied to the alternative between a free or an arbitrary original of our institutions. We have shewn that under the Saxon dynasties the independence of self-government was carried to the extreme of almost political disseverance. And when the Norman conquest, together with its peculiar phase of the feudal system, introduced a greater tendency to centralization and extended the powers of the *consilium ordinarium*, institutions grew out of it, whose

* Kennett's History of England, vol. i. p. 594.

interest and unceasing resolution were to assert their independence and the supremacy of common law. The Privy Council so analogous in its constitution to its predecessor the *consilium ordinarium* found in its own bosom, and in the course of events ample temptation and opportunity to press into its service the traditions which properly belonged to its predecessor, but which did not accord with the state of legal institutions in which it had found its own origin and existence. The introduction of the study of civil law into Oxford by Vacarius under Stephen, and the extensive influence of Ecclesiastical and legatine power in England under Henry III. may have led to the growth of what is now called equitable jurisdiction, but which then meant an interference with the course of those laws which the English people were unwilling to change. Although the exercise of this jurisdiction when compared with the atrocities of the Star Chamber brought with it little hardship, it jarred on another feeling which thus early was working in the national mind, and eventually burst forth with a vehemence which has not yet completely subsided. This was a feeling of hostility to every thing Roman which in Edward III.'s time encouraged by the Papal schism enabled the Sovereign to throw off the last remaining badge of political subjection, and at a later date, produced the Reformation. The same well-balanced system which has secured both Church and State from the triumph of a party, has in our laws and legal institutions established the simultaneous if not always harmonious operation of the civil code and the common law. The struggle between them has been severe, and the position of the Council was in opposition to the general sentiment then embodied in the cry still so familiar to ourselves '*nolumus leges Angliæ mutari.*'

But at the same time that the influence of national feeling and of established institutions had already set in a sort of under current against a tribunal, which tried by the strict interpretation of Statute was within the terms of the Great Charter, the rise of the third estate was introducing a still greater power. The more distinct nationality, which becomes visible at this period, was the sign of more settled equilibrium, and it very shortly became apparent that the pretensions of the Council were not altogether in harmony with the prerogative of Parliament. Parliament succeeded to the powers originally exercised by the Witenagemote. It was the grand inquest of the nation—judicially and politically. The representatives of the boroughs and counties were simply vindicating their old judicial and political independence when they claimed successively in the Great Council of the nation a control over the executive, the initiative in

legislation, and a voice in judicial proceedings. Thus its progress tended to define the power of the council in both its administrative and judicial capacities. The decisions of the council acquired infinitely greater weight when delivered in the High Court of Parliament than they possessed when given, as frequently occurred, in pursuance of its delegated authority. And although the limits, which statute imposed upon its exercise of jurisdiction, were gradual and in proportion to the growing capacity of the Commons, still those enactments, if the early spirit of the constitution can be defined by statute law, shew that that authority was not engrafted on it till the energy of constitutional liberty had drooped and society itself had lost its vigour. Trial by Jury had become the pollution instead of the safeguard of justice, and amidst the constant corruption and intimidation of jurors, special commissions to inquire into offences had been constantly* issued and necessarily armed with dangerous powers. The growing insecurity of the public must be accepted as the proximate cause of the establishment of the Star Chamber; and the high character which it at first maintained is the best argument against the charge of designing policy, which its subsequent history suggested against the extension of its power.

The real character of the Act of 3 Henry VII c. 1. as distinguished from its causes and results must be tried by reference to the principles which were successfully asserted in the Revolution of 1399. As a basis of constitutional settlement, the accession of Henry IV was almost equally important with that of William III. Though most of our present guarantees for free government are traceable to the time when the Plantagenets sat upon the throne, it cannot be denied that under their vigorous rule, there had been a strong tendency to centralize the power of Government in the hands of King and Council. In theory we know that this was otherwise. The Great Council and Parliament were both of them entrusted with the highest functions. But when the nobles were dependent for the exercise of their high privileges on royal selection, when no tenant by barony could enforce his right to a writ of summons and when those who attended possessed the double qualification of members of the Council and Peers of Parliament, the separate jurisdiction of the House of Lords could not become established as independent and supreme. The deposition of Richard II was the result of an aristocratical combination and gave to the political rights of the Upper House a more definite character. The immediate conse-

* Especially under the three Edwards.

quence of this was a fresh limitation upon the judicial powers of the government. The appellate jurisdiction of Parliament, once recognized as independent and as final, drew after it important consequences. The Commons so powerful under the Lancastrian kings were not easily to be debarred from their share in an influence so extensive, to which too they were entitled in accordance with the early spirit of the constitution. The separate functions of the two houses, the right of the one to petition, and the privilege of the other to render its assent necessary, marked out to each its peculiar share in the administration of justice. But it is impossible to mistake the new spirit and vigour which this silent acquisition threw into the proceedings of Parliament. The Commons, who in Edward III's time had shrunk as the poor mean incapable citizens from offering any advice in the conduct of affairs, now aspired to direct and control them as the faithful and discreet monitors of Government. It was this spirit which, brought to bear upon the Privy Council, effectually set limits to its jurisdiction, till in the desolation of civil war the whole balance of authority was for a time destroyed. The erection of the Star Chamber, or rather the extension of its authority by Act 3 Henry VII was in the nature of a reactionary movement against the more feudal principle which regarded the House of Lords as the supreme judicial tribunal. Nor were the maxims of the Tudor Government likely to retard the progress of this movement, while the long intermission of Parliaments during the reigns of Henry VIII and Elizabeth favoured the transfer of its powers to the Committee of the Privy Council which sat in the Starred Chamber. The Privy Council, so to speak, stole a march on the constitution, as it is impossible to justify its position by reference to its original history. The *consilium in consilio* on which Sir M. Hale insists had vanished; the Council had established its independence, and notwithstanding all the opposition it had experienced under the Lancastrian kings, it had finally triumphed over the House of Lords.

Still however Parliament succeeded in preserving one department of its jurisdiction from all encroachments of the Privy Council viz. the adjudication* of Writs of Error from the courts of law at Westminster; for the 27 Elizabeth c. 8. established the court of Exchequer Chamber on the express ground that such writs were determinable in the High Court of Parliament only, but that from the frequent intermission of its sittings, the

* Macqueen's Practice House of Lords and Privy Council, p. 668—686.

Queen's subjects had been greatly delayed and hindered of justice. The Council however drew into its own hands and never afterwards lost the exclusive adjudication of appeals from foreign and colonial dependencies of the crown and from the Channel Islands. It appears that appeals were first granted from Jersey in Henry the VIII's reign, and the records of the Privy Council of 13th May 1572 present the first instance of the exercise of this jurisdiction.

The decline of the vast political influence once exercised by the peerage—and exercised we may remember with a patriotism and sagacity which have to this day given to the aristocracy a firm hold on the national mind—had been apparent long before its effect was seen in the rise of the Star Chamber and in the Statute of Fines of 4 Henry VII. In Edward IV's reign we must infer that the appellate jurisdiction of the House of Lords was practically in abeyance, since they allowed the famous decision of the judges in *Taltarum's* case, which eventually destroyed the immunity of the nobility from forfeiture of their estates for treason, by rendering a fictitious process of law a bar upon all claims under the entail. It is impossible to believe that the peers would have failed to reverse this decision of the court below, if they had retained their former power. The Statute of Fines gave the sanction of the legislature to this bold innovation of the judges, by establishing a kindred process, and weakened still further the exclusive grasp of the aristocracy upon the landed property of the kingdom. Other Statutes* followed with a similar result; the ultimate effect of which was undoubtedly favorable to liberty, though at first the decay of aristocratic influence enhanced the prerogative of the sovereign. It is curious to observe the popular jealousy for the rights of the peerage which followed as soon as royal authority seemed to establish itself on its ruins. One of the grievances sent up to Henry VIII by some insurgents of Yorkshire was that the Privy Council was then formed† of persons of humble birth, while at the commencement of the reign there was a large proportion of nobility. Henry did not attempt to turn the charge to his own account, but immediately proceeded to plead a denial of both allegations of the complainants. 'Of the temporality

* e. g. 26 Henry VIII. c. 13 declared lands held in fee-tail to be liable to forfeiture for treason. 32 Henry VIII. c. 36 placed upon 4 Henry VII. c. 24, a construction which the judges had till then hesitated to put upon it viz. that a *fine* duly levied by the tenant in tail was an absolute bar upon him and his heirs.

† This was in 1536 vid Sir H. Nicolas Rolls of Privy Council, vol. vii. Preface.

there were at our accession but two worthy calling noble, the one Treasurer of England, the other High Steward of our house: others as the Lords Marney and Darcy but scant well-born gentlemen, and yet of no great lands till they were promoted by us, and so made knights and lords: the rest were lawyers and priests save two bishops, which were Canterbury and Winchester.' Henry proceeded to shew that there were at the time he was speaking 'many nobles indeed both of birth and condition' in the Council, as the Dukes of Norfolk and Suffolk, Marquis of Exeter, Earls of Oxford and Sussex, and 'that it appertaineth nothing to any of our subjects to appoint us our Council, nor will we take it so at your hands: wherefore henceforth remember better the duties of subjects to your King and Sovereign Lord, and meddle no more of those nor such like things as ye have nothing to do in.' The insurgents therefore did not gain much by their remonstrance, but it displays the idea which was working in the mind of the country. The Commons seemed to be alive to the fact that in the decay of that class feeling which had so long distinguished the feudal nobility of England from the barons of continental Europe, they had lost their securest shelter from the oppressiveness of regal power.

We cannot attempt anything more than a very hasty sketch of the rapid growth of arbitrary power under the Tudors, and of the reaction against it under the Stuarts: nor is it important to do so since under those dynasties, at least till the Restoration, the Council occupied a very forced and unconstitutional position. We must, however, recur to the Act of 3 Henry VII c. 1 to discuss the constitution of the court which it created—a subject almost as complex as the early history of the Council itself. If we bear in mind the distinction between the *consilium ordinarium*, and the Privy Council viz., that the latter was simply an executive committee, while in the former were originally vested all the different functions of public authority, we may understand that this tribunal which we call the court of the Star Chamber, though at first strictly and legally distinct from it, and erected for a specific purpose in times of great turbulence and disorder, had little in common with the proper character of the Privy Council. It was a judicial committee exercising criminal jurisdiction, and following as we have already said, the precedents of Edward III's reign, and like the courts of law and equity it could more properly deduce its parentage from the *consilium ordinarium* than from the Privy Council. We have already traced the Privy Council confident in its powers, and presuming upon circumstances usurping, on account of its

resemblance to the *consilium ordinarium*, authority which properly it did not inherit. We have seen that the Council's authority, like that of every other institution, had been obscured by the civil wars, and we have seen that the jurisdiction of the House of Lords had fallen into disuse from the intrinsic decay of the peerage. With the accession of a new dynasty a statutory recognition for purposes of public security was given to the judicial power of the old court which sat in the Starred Chamber. It engrafted it on the constitution, supplied it with definite powers, and imposed upon it responsible duties; but though its members were or might have been privy councillors, it was distinct from the body of the Council. For the next thirty years the Privy Council apparently acted over again its old systematic usurpation of judicial power. The first result was that the Act of 21 Henry VIII c. 20 added the president of the council to the judges of this court, who thus formed the connecting link between them, as the chancellor in previous times had connected the Council and the Court of Chancery. The gradual devolving of its power upon the whole body of the Council seems to have been the silent operation of Henry VIIIth's reign, and may very fairly be attributed to his personal influence and that of his minister Cardinal Wolsey. From that period ensued the crimes and tyranny which have rendered the name of Star Chamber odious in history. Yet its career was by no means singular or inexplicable. Shorn of its natural leaders, and decimated for many a long year by civil and religious strife, the English people had staggered in their race for liberty and had resigned in a moment of depression their inheritance of independent justice. The weakness of the courts of law, and the ignorance, intimidation or corruption of juries formed the ostensible excuse; but just as degenerate nations have found their persecutors in those whom they have invited as their protectors, so the experience of the sixteenth century was that private rights and social order have no security in the absence of public spirit.

We may notice, in passing, the Court of Requests, also a committee of the Privy Council, which has been entitled the poor man's court of equity; notwithstanding its encouragement of the use of torture and the rack. It is said to have taken its origin from an ordinance of 13 Ric. II: its process was issued under the Privy Seal: and it met its fate at the hands of the Judges of the Queen's Bench, who in the 41 Eliz. came to the decision that it was no court which had jurisdiction and that all its proceedings were *coram non judice*.

Turning from the judicial history of the Privy Council, we find

that its executive functions had undergone no material change. The greater part of its members* were still supposed to be in constant attendance at court, following the person of the King. They consisted of the great officers of the household, a Bishop and one of the principal secretaries. While, however, one body of the council was absent with the king, a board sat for the transaction of business in London consisting of the ex-Chancellor, the Archbishop of Canterbury, the Principal Secretary, and a few other great personages of state. The Privy Council exercised all the functions which now belong to the cabinet, but were practically responsible only to the sovereign. Henry VIII was undoubtedly his own chief Minister, and his personal energy and overbearing conduct abrogated for a while the principle of Ministerial responsibility which at one time had been completely established.

The two greatest encroachments of the council on the rights of Parliament were the levying of taxes and the substitution of proclamations for statutes properly enacted by the three estates of the realm. The former did not till the time of the Stuarts reach extravagant limits, for however careless the English people then were of private wrongs, the voice of the country was often heard in support of general privilege. But the Act of 31 Hen. VIII. c. 8, following close upon a statute† which enabled the sovereign of his own personal authority to repeal any enactment made during his reign before he attained to the age of twenty four years, was a serious innovation upon constitutional precedents. It enacted that the king and council might issue proclamations under penalty of fine and imprisonment, and that these proclamations should be equally binding on the subject with Acts of Parliament. The limitations made to this authority in favor of the subject's inheritance, offices, liberties, and goods, and also in favor of the established laws prove that the spirit of Magna Charta was not extinct, and the council's wish for the sanction of Parliament to its conduct was a tribute to the influence which it still retained.

Prerogative thus strained was not long before it felt some reaction. Under Edward VI and Mary it had evidently receded. Bills were frequently rejected which had passed the Upper House, and it now became an important part of the ministerial policy to influence the conduct of the different institutions in the choice of their representatives. Still however although this deference

* Sir H. Nicolas *Rolls of the Privy Council*, vol. vii. pref. ix.

† 28 Hen. VIII. c. 17.

was paid to the influence of Parliament, the power which the Acts of 3 Hen. VII and 31 Hen. VIII gave the council over the liberties of the people was gaining a deeper root. Arbitrary commitment to prison had been denounced as unconstitutional from Magna Charta downwards. The right of the subject to the unfettered control over his person and acts was, however indisputable, no doubt difficult at all times to maintain. But under Henry VIII there was a Parliamentary abandonment of the principle. Commitments even by a single councillor came to be frequent,* and personal freedom had no security against the oppression of a minister. The judges who under the Plantagenets had won a lasting renown as the champions of liberty and the public interest, now stood in the breach to defend the stronghold of the English constitution. Their remonstrance is preserved in the British Museum—a noble memorial of the fearlessness of their conduct; and from that time the principle that no subject of the sovereign can be imprisoned except by due course of law must have been beyond all contradiction, however much it may have been practically set at nought. The Habeas Corpus Act has rendered this immunity of the subject a chartered right—as indisputable as the principle of self-taxation. The question was unexpectedly opened up in the House of Lords on the night† of the 20th April 1831, but in a form so modified, that considering the excitement of the time, it is the best homage to the sacredness of the principle in the eyes of the legislature. In discussing a question of breach of privilege, Lord Chief Justice Tenterden gave expression to the opinion, that the two Houses of Parliament equally with the courts of law at Westminster, possessed the power of fine and imprisonment, and were invested with it to ensure the reverence which was due to the legislative council as well as to the tribunals of justice. The doctrine that Parliament as a legislative council possessed this power drew from Lord Chancellor Brougham a vehement disclaimer—‘for the character of parliament, for the sake of the country, and out of kindness to his friend he wished to set him right on a point of so much importance, and then give him an opportunity of explaining himself since he had invested the House of Commons with a power which the stoutest friend of parliamentary privilege had never before ventured to arrogate to the Common’s House of Parliament.’ Lord Brougham subsequently laid it‡ down that the House of Commons has the power of

* Hallam’s Constitutional Hist. i. p. 234.

† Hansard’s Parl. Debates 3. s. vol. iii. c. 1714.

‡ c. 1718.

commitment, but not for any certain time: they have the power to commit as a means of removing an obstruction; but the confinement of the person so committed can last no longer than the end of the session. The House of Lords, on the other hand, being a court of justice—a court of record—and even the highest court of justice, is said to have the power of committing for a time certain and of fining: but that power has been disputed by many sound lawyers, though affirmed by the King's Bench.

The effect of the Reformation on the spirit of liberty was not at first very deep. There was but little of popular passion in that movement. At first it was a political scheme, and then an intellectual success. But the idea which seemed most prominently to possess society during the last years of the Tudor reign and under the Stuarts, was that of the paramount power inherent in the abstract sovereignty of a King. Political events had favored its development, and the title of 'Defender of the Faith' gave a sort of papal supremacy to the crown. The church tasked its utmost energies to force its growth in the public mind. The doctrine of the divine right of Kings was her contribution to the imperial armoury. With this principle of submissiveness on its lips society was impelled by its own instinct, and by the silent influence of the Reformation on people's minds to disown it in its heart; but at the same time, had it not been for the excesses of the Stuart family, the recoil might have been long delayed.

The issuing of illegal proclamations by the Council under James I. was carried to a great extent. One* ordered all country gentlemen to leave London and return to their country houses, and there maintain hospitality on pain of condign punishment—others prohibited any building to be carried on within two miles of London, and like other prohibitions of a similar nature was apparently resorted to for the purpose of raising money by selling dispensations. Lord Coke had set his face against these proceedings, and also against the illegal solicitation of loans from the subject; but though uncompromising in general, the Chief Justice in this instance retracted an expressed opinion. Tenacious of the dignity of his office, and firmly attached to the liberty of the subject, he had often braved the displeasure of the Court, and at one time committed himself to a personal struggle with the Chancellor, and vigorously disputed his appellate jurisdiction after judgment at law.† Coke prosecuted the solicitors and counsel who had filed the bill in appeal from his judgment,

* Hall. Const. Hist. vol. i. p. 337 note.

† Hallam. Const. Hist. vol. i. p. 345.

the King directed that those who preferred the indictments should themselves be prosecuted in the Star Chamber.

This Star Chamber had at this time become the scene of unblushing tyranny and oppression. The private expression of opinion, the slightest opposition to the Council's measure of orthodox belief, and even a refusal of a witness to inculcate herself by her own evidence* were sufficient to call down the severest penalties. The Judges of the Star Chamber, like the barons of the Norman conquest, were inspired with an insatiable ravening for plunder, of which in these times we can hardly conceive. The addition of torture and the rack, though used comparatively with other countries, according to Lord Burleigh's benevolent proviso, 'as charitably as such a thing may,' rendered this institution at length intolerable. The struggles respecting the authority of the Council, which had slumbered beneath the vigorous prerogative of the Tudors, were again awakened, and at length the Act of 16 Car I. c. 10 abolished the Star Chamber, and the whole of its cognate jurisdiction: and the civil jurisdiction of the Privy Council was declared to be a usurpation contrary to the laws of the land—a proposition, like many others made by both parties during this famous struggle, eminently unconstitutional, since though technically and historically correct, it violated four centuries of established right. We may trace the civil war quite as much to the terror and indignation of the country at the cruelty of this institution—a cruelty not peculiar by any means to the reign of Charles I.—as we are accustomed to do to the extortion of ship-money and benevolences. The principle of self-taxation was selected as the grievance of the Commons, for no principle has been so powerful on English sympathies or has commanded such universal assent. Yet in the excesses of the Restoration, the Star Chamber and the High Commission were not renewed—the strong hatred with which they were regarded could not be effaced even by the fervid loyalty of 1660.

During the quarter of a century which elapsed from the Restoration to the Revolution, the Privy Council experienced another change. We are passing from the time when State affairs were discussed and great causes decided by the King in 'Council' to a period when the Cabinet was separated from the Council, and closed its doors against the sovereign. Royal assent or command is thus no bar upon the responsibility of a minister; his function comprises both advice and execution: and though his authority is delegated from the crown, he holds its exclu-

* See Lady Shrewsbury's examination at the trial of Arabella Stuart.

sive exercise and responsibility. The Cabinet is still unknown to the law, and it arose partly from the Privy Council becoming too numerous for secrecy and dispatch, partly from the indolence of Charles II. and the tortuous foreign politics of the Cabal which precluded the regularity and comparative publicity of a full Council. The fall of Lord Clarendon sealed its fate. His object had always been to uphold its power and dignity; he had endeavoured to confine its members to those high in office and high in rank,* and thus to secure its administration of its supreme power. Charles I is said to have originated this appointment of a committee to decide upon matters of consequence before they were finally submitted to the Privy Council—a scheme which suited his ideas of regal power and anticipated to some extent opposition to his policy. Under Charles II, notwithstanding the efforts of Lord Clarendon and Sir William Temple this change gained ground; and by leading to the eventual establishment of ministerial responsibility promoted the ends of liberty. We find it stated that at one time the Archbishop of Canterbury† was always a member of the cabinet, just as the Lord Chancellor is now. The number of its members seems to have been small at first—the famous Cabal consisted only of five—while the present cabinet of Lord Palmerston at one time numbered sixteen.

Under William III this distinction of the cabinet from the Privy Council becomes more and more confirmed. A sovereign of such unrivalled administrative capacity, and whose proceedings were so often marked by secrecy and expedition, would not be readily brought to consult with a numerous body like the Privy Council, nor even, as sometimes happened even in the most important matters,‡ with the more select cabinet itself. Twelve was the usual number of the Privy Council in early times; after it had inconveniently increased, Charles II in 1679 restricted it to 30, but since that it has been indefinite.

The position in which we find the Council after the revolution was widely different from that with which we are acquainted in times previous to the Great Rebellion. Privy Councillors are still however made at the sovereign's nomination; they enter office on taking the oaths, and retain it during the lifetime of the sovereign, though removeable at his pleasure. The Act of Settlement 12 and 13 William III c. 2 enacted that no one born out of the dominions

* Hallam's Const. Hist. ii p. 348 note.

† Hall. Const. Hist. ii 349 note.

‡ See note p. 350—the Partition Treaty.

of the English crown, unless of English parents, even though naturalized by Parliament, can ever be appointed to the office. The sovereign can dissolve the whole Council if he please, and appoint another, but since 6 Anne c 7 (which continued the existing council till six months after the death of the sovereign) the royal demise does not *ipso facto* determine its existence. No question respecting the jurisdiction of the Council survived the Revolution, but the narrow bounds within which it has been restrained are a striking contrast to the whole of its previous career. The only relic of the criminal jurisdiction which belonged to it at the time when it sat in the Curia Regis, is its right to examine and commit for high treason ; but the power of punishment has entirely passed from its hands. It still issues proclamations, and is called upon to meet extraordinary emergencies, and it reserves to itself the right of granting charters. These, together with its jurisdiction over the colonies, alone remain of its former authority. The consequence has been a change of feeling with respect to it. It is the natural tendency of mens' minds to look to the executive to deal with certain cases which occasionally arise, and which are beyond the reach of the ordinary tribunals and institutions of the country. This feeling or this necessity has resulted in throwing a large amount of almost irresponsible power into the hands of the Secretary of State—and some recent extra-judicial investigations have shewn that power in a light which may at any moment become of questionable utility. The present generation has witnessed an important renewal of the old functions of the Council. The 3 and 4. Will. IV c. 41. established a judicial committee consisting of the Lord Chancellor and such members of the Privy Council as shall hold certain judicial offices specified in the Act and all who previously filled the offices of Lord Chancellor, or President of the Council, and any two other members who may be appointed thereto ; three of whom, exclusive of the President for the time being, shall form a *quorum*.

The complete separation of the Cabinet from the Council has served to divert from the latter the attention of the public and almost to withdraw it from any decided influence on the course of events. The change which has made a select few, each of whom is burdened with the charge of a distinct laborious department, the channel of the exercise of the executive power, has tended oftentimes to throw a large amount of uncontrolled authority into the hands of a single Minister. The preventive voice of public opinion and the corrective hand of Parliament are sufficient to restrain its abuse ; but the fact remains that at the present

moment a Minister, if supported by public opinion, can exercise an authority which in the days of Charles II. would never have been tolerated. The strong antipathy to the Privy Council has entirely faded from the public mind, and the present generation has witnessed the first attempt to re-invest it with a portion of its old judicial functions. Whether or not the appeal from a Court of Equity should lie in the last resort to the House of Lords or to the Privy Council, as a question of practical convenience, is one which may be often canvassed. As a question of constitutional propriety the verdict of history is that the lords in Parliament acquired an appellate jurisdiction over the Courts of Equity at the time when they divested the Privy Council of the greater portion of its judicial authority. As a tribunal possessing the supreme original and appellate jurisdiction in all matters cognizable at common law, the High Court of Parliament is distinguished in history and stands on its true ground as the legitimate successor of the Curia Regis. The former it lost and never regained; but its appellate jurisdiction over Courts of Equity—the right to temper, in the language of Lord Bacon, the rigour of law by the conscience of a good man—has in the complicated state of English jurisprudence necessarily thrown the functions of the house into the hands of a select body of law Lords who would exercise their authority with increased dignity and equal weight if they sat as a separate court, as they were wont in the days of the *consilium ordinarium*.

ART. VI.—*Acts V & XIII of 1861.*

WE make no apologies for touching thus early on a measure which has been introduced into no district more than fifteen, and into some districts not more than nine months. No doubt final judgment must be suspended, not only till the publication of the first Annual Report, but further, till several years of experience shall have provided reliable grounds for a mature opinion; still, as an experiment, the results of which must be incalculable for good or for evil, the first steps are full of instructive lessons. Fragmentary as our remarks must be—some of them dealing with the theoretical principle, some with the Legislative details, and some with the practical workings of the new measure,—we yet think that such contributions to the cause of Indian Police Reform may be found useful.

Amidst the perplexities and uncertainties of the subject there is one sure standing ground. Whatever may be the shortcomings of the new system, the old Police was (we are sorry to say *is* in Bengal) about as bad as bad could be. Three generations have passed a just and decided verdict on this point. The Police were proved over and over again to be the accomplices of the Dacoits—the jackals of the Thugs. It was shown that torture was habitually made use of in the investigation of crime; that a stock of ‘confessors’ was kept ready at every Thanah,* in order that, when the wrath of the Magistrate grew high, a victim might be at all times available; that, practically, it rested with the Darogah whether crime should be reported or concealed, punished or suffered to pass with impunity; and that either event proved to him a source of unauthorised gain. Each unofficial European resident in the interior felt, to a minor degree, the evil which crushed the ryot, that every occasion on which he was brought into contact with the guardians of the peace insured annoyance to himself, and emolument to them.

In this universal bad odour of their predecessors the new Police had a most powerful auxiliary. They were sure of contrasting favorably with those with whom they would naturally be compared.

* Throughout we have preferred the use of the old names ‘Thanah,’ and ‘Darogah’ or ‘Thanahdar’ to the modern names ‘Station’ and ‘Chief Constable.’

No English prejudice was likely to be shocked by the change, because it was universally felt that no change could be for the worse. It was certain that all the confusion and delay attending the introduction of a radical reform would be forgiven, in the hope that our new protectors would not turn out to be our worst oppressors—the ministers of justice no longer remain the most irreclaimable of criminals. Despair at the existing state of things: the hope that will see no danger in any reform; the ardour of a fresh institution; all these motives united to produce a general feeling of confidence in the new force. There were some, and among them were to be found members of the Legislature, who believed that besides the negative result of securing our subjects from the tyranny of underlings there would be a positive increase in the safety of life and property. They thought, against all experience, that the system, which they fondly believed perfect, might perhaps regenerate a corrupt society, and the analogies of the English and Irish Constabulary were brought forward to justify a hope that the same absolute safeguards of order might be provided as in European kingdoms.

Such sanguine hopes were perhaps necessary to prevent men from being daunted by difficulties of the scheme. These were nevertheless great. An entirely new machinery was to be created. Few of the details of the measure had been provided by the Legislature. Arrangements originally contrived to suit a European state of things were to be introduced among a society that bore not the slightest resemblance to any thing European, and engrafted on old institutions and customs repugnant in every way to European notions. The task was to be entrusted to officers unprovided, as a rule, with a particle of local knowledge; and lastly, the sure hostility of the old native cliques was to be met.

It is known that every officer of a criminal or revenue court has his train of dependants—himself depending meanwhile on the favour of some official higher in the scale. The ryots rally round a ryot; the Mahommedans round a Mahommedan. Each official of trust or importance expects to be able to introduce some relation, connection, or friend into Government service, and even the purest of the class will intrigue heart and soul to get a member of his family into a post of some ten rupees a month. Periodically the old relationships may be broken up by some energetic Magistrate, but the passion is engrained, and periodically the family interests revive. There were many causes to induce all classes to unite in hostility to the new measure. In the first place, there was to be a change, and the idea of change

is connected with every thing most distasteful in the eyes of a native, and more especially of a native official. Old traditional and well recognized systems of corruption were sure to be broken up, and it might be long before fresh arrangements could be organized in their place. Again, it was known that a stricter discipline would be introduced; the whole force was to be drilled, and to a native whose hopes are fixed on a civil pursuit drill seems an insupportable indignity. Again, the pay of the thanadars was to be much diminished. Lastly, in some districts a rumour got abroad, in that mysterious way by which such impressions are propagated, that perhaps the Burra Sahib would not be displeased with those who resigned a service no longer under his own patronage. As if to aggravate matters, advantage was every where taken of the opportunity to make a sweeping removal of all who seemed unlikely to come up to the mark of efficiency. Instantly the alarm was taken. All who feared removal themselves all who had relations to serve; all who, having paid well for their present posts, looked for future opportunities of reimbursing themselves; all who were in the most distant degree connected with any one employed, or likely to be employed in the old Police, began industriously to propagate every kind of false and absurd reports against the new force. The highest official was to be flogged for the first offence; no dignities were to be respected; all the little appendages that mark the position of a petty official were to go as a matter of course; tattoos would be prohibited luxuries, and every one must march on foot to his duty: all who entered the force were to be ever after cut off from employment in any other line. And to such rumours was added the threat that, if any one should be so bold as to desert his clique and enlist, the support of the clique would be withdrawn from him, and that, in that case, the first accusation of corruption or extortion would be his ruin.* Thus the introduction of the Act was followed in many districts by wholesale resignations, and the interests of those who remained were wholly bound up with those who went.

Such were the hopes that attended, and such the difficulties that obstructed the introduction of the Constabulary. It is our task to enumerate—and we trust that we shall be believed when we say, in no unfriendly spirit—the errors, either in the principle

* The effectiveness of such a threat will be felt by many a district officer, who, after flattering himself that he has caught a notorious extortioner has, later on, found reason to suspect that the victim was, after all, but a scape-goat—less rather than more guilty when compared with his neighbours—but sacrificed owing to some revolt against the traditions of his clique (*bhai bund*.)

of the measure or in the practical details, which have lent additional aggravation to obstacles in any case certain.

I. The ever increasing deluge of forms, resolutions and circulars which paralyze, while they pretend to guide, the action of the District Superintendent. Time and thought that ought to be spent in actual work are spent in exhibiting results. It is always the way in India. Work is measured by waste paper, and gradually the preparation of waste paper comes to be the principal work. Young as it is, the Police Office is becoming as large and as hampered with forms as the oldest civil court. Already in each district it provides work for some two English writers and a European Assistant Superintendant or Inspector—all, be it observed, additional and *non-productive* labourers.* For Heaven's sake let economy of time and simplicity of detail be somewhat consulted. Let after thoughts cease. Can no measure, however simple, be framed for the administration of the country, but it must be made at once the text of endless explanations and comments, engulphed in a vast vortex of conflicting instructions, patched and re-patched till not a vestige of the original fabric remains visible?† If experiments must be tried, at least let the details be settled beforehand.

II. The madness—we can call it nothing less—of reducing the pay of the thanadars. It is with these men, almost the lowest in the scale, that the real power, at least for evil, rests, and must rest. A thanadar can reduce to absolute ruin any one of the seventy or eighty thousand people in his jurisdiction. He can render the lives of the numerous bad characters most comfortless or most luxuriously prosperous. For every crime produced he can produce a criminal. If the victims chance to be innocent, so much the worse for them: the accident cannot be charged to his account. Or he can, with almost equal impunity, suppress the report of the crime altogether, and even turn the chief sufferer into the chief offender. On all the occasions, in which the rulers come in contact with the ruled (and owing to the relations of a civilized government with a semi-civilized population, it is the tendency of such occasions to multiply themselves continually) he can make his power the source of

* This is as real a distinction in administrative, as in Political Economy. In both there must be unproductive, as well as productive labourers; but the aim of both sciences is to reduce the number of the former to a minimum.

† We have now a simple Penal Code and a simple Criminal Procedure. How long will they remain simple under the manipulation of the Sudder Judges?

infinite annoyance. Take, as an instance, his power over a native landowner. He can report that the village well-head is in bad repair, and in its present state dangerous, or that the Zemindar has encroached on the public road, or has sheltered a bad character, or that he has interfered with the service lands of the village watchman ; and so on without end. It may be laid down as a pretty general rule that, if he refrains from exercising his power in all or any of these instances, it is only because he is paid. From a conviction of the power of abuse in the hands of such men, Indian thinkers have long held that a reform to be effectual must commence with the thanadars. Their pay and position must be raised to such a point that it will be easy to retain men of respectable family in the post. The very reverse of this has been done in the North West. The old thanadars received from 35 to 50 Rs. a month : under the new regime they have been cut down to, on an average, 20 and 25 Rs. and, what with subscriptions to Superannuation Fund, Income Tax, expense of uniform, and other items, the real amount received is not often more than from 16 to 20 Rs. The savings effected by this reduction of pay go to support an increased number of constables, and a variety of inspectors, very useful officers in their way ; but no consideration whatever can justify the reduction of the thanadars to a pittance which renders corruption inevitable.

III. Too great haste at first in removing the corrupt and incompetent. Men are apt to think that on this point there cannot possibly be too great haste. They forget that the miserably small pay has rendered some degree of corruption inevitable ; that it is only in degree that the practices of one can differ from those of another ; and that where corruption is so widely spread, the chances are that the comparatively innocent will be made the scape-goats. They forget too that, the more uncertain the tenure of office is, the less readily will respectable men come forward, and the more anxious will those who do come forward be to enrich themselves before the blow comes. Meantime all the former tenants of these posts, and all their hangers-on are busy in depreciation of the new force, and every fresh removal adds point to their endeavours to deter men from taking office in it. When it is recollected how hard it is to persuade a native that the removal of any official was owing solely to his own shortcomings, and had nothing to do with his "kismut," it will be easy to imagine the evil caused by even the best deserved punishment while the system is yet in its infancy.

IV. The doubtful policy of establishing a staff of European Inspectors. These men, from the comparatively small amount

of pay, must necessarily be drawn from the class of adventurers. We use this term in no disrespectful sense. We simply mean it to designate men who have been either born in the country, or have come out to it with no fixed prospects except that of turning their hand to any employment that may come in their way. Disappointed Railway employes, ex-conductors in the Commissariat Department, seafaring men—members, in short, of that miscellaneous class of roving Englishmen that is yearly increasing in the country—such are the men who are glad of an Inspectorship in a new Police. They are on an average the sort of men who served or might have served in the late Yeomanry Cavalry—men who did undoubted acts of skill and daring in the mutiny—admirably adapted for a purely, or even semi-military force; but, we think we are doing them no injustice when we say, out of place in a wholly Civil Police. Indeed it is not easy to see what special object can be gained by employing them. They can, it is true, be sent round every now and then to see that the books, &c. are *en règle*; and occasionally they may with advantage be despatched on some extraordinary service, in which intrepidity rather than delicate management—instinctive sagacity rather than special training, is required. But this is all. They cannot be put in permanent charge of an outpost. The life of a half-educated Englishman in an isolated position, unsubjected to daily discipline, would, we fear, be so little edifying that he could not, without loss of prestige, be made the representative of law and order. Nor can they be employed in any more than ordinarily intricate investigation. Occasionally there would be found one man brighter than his fellows, who might be trusted to take the place of the ordinary Police in tracing out the evidence of a crime, but in the greater number of investigations required to guide the judgment of a Superintendent, they would be at once too high, and yet not high enough. Too high to be employed as detectives, for which service indeed their distinctive character as Europeans obviously unfits them, and yet not skilled enough to manage the delicate cross-examination, the nice balancing of various statements, which gradually disclose the true state of things. Take, for instance, the case of a charge of corruption preferred against a particular official. An average Inspector despatched to enquire into the facts would be liable to be imposed on by the first extravagant story*. Is it heresy to suppose that

* We could record some laughable, and some more than laughable instances of the failure of Inspectors in such investigations, but fear the imputation of personality.

in such cases the Superintendent would prefer to be guided by the judgment of a native rather than that of a European Inspector? It comes to be a balance between the disadvantages of mental obtuseness and of moral obliquity. We put it to our readers, which of the two is, in delicate cases, most reliable; and, lest they should object that the dilemma does not exhaust all the possibilities of the case, we will ourselves forestall them by remarking that, if instead of many Inspectors we had a few more local officers, then neither alternative need be accepted. We repeat, it is only in special emergencies that the Inspectors will be found the instruments best fitted for the particular service. Would not one such special instrument be sufficient for each district? Work of some kind will no doubt be got out of them, but it at least admits of a doubt whether their services are at all commensurate with the expense of their maintenance. Would not a few additional district Superintendents be found infinitely more adapted to the object in view?

V. The mistake of abolishing all written examinations during the first enquiry by the Police. Of old when the *Gorayet* (village reporter) in his daily or periodical visits to the Thana brought intelligence of any crime, the Darogah was instructed to proceed to the spot, examine all the parties concerned, take down their evidence and that of the witnesses, draw a plan of the scene of the crime, and forward the papers with an abstract, and his own opinion to the Magistrate. This power was, of course, open to manifold abuses, and, equally of course, was, as a matter of fact, pretty generally abused. Confessions were extorted; evidence was cooked; the payment of a bribe exempted many a principal witness from being sent in to the Magistrate's Court; and we can allow that there were, on the surface, many reasons for the new rule, that on no account should the Darogahs take down the evidence of any witness, or the answer of any prisoner.* But the evils of the change are much more than a counterbalance. They force themselves naturally indeed on the mind of any one who has ever seen a 'chulan' being brought into a Magistrate's Court. Our readers may form a correct notion of a 'chulan' if they picture to themselves one or more fettered criminals, and a crowd of attendant witnesses, guarded—witnesses and all—by a Policeman in the front, and a

* We believe that, if the criminal manifests extreme anxiety to disburden his conscience, the confession may be taken down under certain precautions. Tenderness of conscience on the part of a North Western criminal is not so general as to lead us to imagine that these precautions are often put in force.

Policeman in the rear—not unfrequently indeed secured by a rope passed round the whole body. The supporters of the new system will say that this is one of the great evils they wish to obviate, their aim being to introduce a thoroughly English mode of procedure. A most excellent aim we must admit : but in England men do not hide in fields of corn or behind gooseberry-bushes, when they catch sight of a Policeman with a subpoena : in England men have not to march on foot forty miles to give evidence, and forty miles back again ; in England a witness is paid an equivalent—very generally indeed more than an equivalent—for the time spent. In a word, in England both prosecutor and witnesses are ready to come forward ; and in India they would give, and do in fact give, much to get off. In this country there is often need to guard the witnesses not less carefully than the criminals ; and, while we are thus forced to assimilate their condition in one respect, it is difficult to prevent them from coming to a most undesirable mutual understanding in another respect. Even if they are not marched off in company, and lodged at night in the same room, there are, in the intervals between apprehension and trial, never wanting opportunities for the friends of the criminal to impress his views on prosecutor and witnesses alike. It would be odd if, as the result of such a combination, the latter did not on the day of trial, profess their entire ignorance of all the circumstances in the most remote degree connected with the charge. In fact the only safeguard against such a consummation will be a record of the evidence, while the events are as yet recent, and while the neighbours are under comparatively slight temptation to conceal the facts. As it is, a most gratuitous difficulty is thrown in the way of the successful prosecution of crime by this well meant provision. The thanadars are indeed permitted, as it is with amusing naïveté provided, to record ‘for their own satisfaction’ an abstract of the evidence, but our experience of the Darogah character will not suffer us to fancy that any extended use is made of this privilege. Can any of our readers, can the Inspector General himself conceive a thanadar keeping any record for ‘his own satisfaction’? In fine, the abuses against which the provision was aimed can only be met by that increased supervision, which it is the object of this article to advocate. Every thing short of this will thwart justice, while it does not protect the subject.

VI. The non-employment of a separate force of detectives. A constabulary in India like the gendarmerie in continental Europe is intended for two distinct purposes, the repression of disorder and the detection of crime. The new Police in the North West

are, and, as far as we can see, are likely to remain, effective for the one, but nugatory for the other purpose. Indeed the experience of the Irish constabulary, the analogy of which is the mainstay of the measure, might have taught its supporters to expect this result. The Irish constables who threw Sir F. Head into such ecstasies of admiration have always been found most useful in the repression of disorder but absolutely, unavailable for the discovery of the criminal. But in Ireland, besides the regular constabulary, there is a separate, and exceedingly well paid force of detectives, and this division of labour is beginning to succeed in attaining the double purpose of a Police. There are no doubt grave difficulties in the way of applying the expedient to India. In one respect the conditions are the same. In the 'disturbed districts' of Ireland, as in the whole of India, the sympathies of the population are with the criminal rather than with the Police. In India the feeling is perhaps more apprehension of the consequences of interference than positive sympathy; nevertheless, the result is the same—an unwillingness to help in the investigation. But, if in this fact is to be seen the need of employing skilled detectives, it is on the other hand certain that, without extreme precautions, the power thus bestowed would be as shamefully abused as that given to the spies of absolutism abroad. Anything would be better than the revival of such a system as that from which part of Rohileund suffered under a rather famous Civilian some years ago. The detective rapidly became a mere spy, but, as a spy, he was the terror of the country. He became in fact all that the ordinary thanadar ever was, and more. Our first duty is to see that those, whom we employ in the detection of crime, are not more dreaded by the population than the criminals themselves, and in comparison with this, it is but a minor duty to see that they fulfil their object of reducing to a minimum the impunity of crime. Is it however impossible to unite both objects? We believe not. As a civilized government we must endeavour, by every means in our power, to provide the same security for life and property as at home. We cannot attain this end without the employment of detectives, and these men must be subjected to the most minute supervision. Here then, as before, minute supervision is forced on us as the ultimate remedy for abuses.

VII. But, as if for the express purpose of reducing still further the limited amount of supervision before possible, the Act provides for the separation of the offices of Magistrate and Police Superintendent. This may suit English notions and English

circumstances. We will even allow that it is founded on a theory, correct enough when taken by itself, that the office of collecting the proofs of crime, and that of judging the value of these proofs when collected, should not be vested in the same officer. But paramount to all such theories is, in India, the pressing necessity of economizing our European officers by assigning to them the smallest possible jurisdictions in order that they may bring to their task the largest possible amount of local knowledge. The truth in this matter is so very plain that it might be taken as the battle-field for the cause of Indian necessities *versus* English analogies: it has been so very often acknowledged that now, when it seems the whole question is to be fought out afresh, we are more inclined to despair of Police Reform in Bengal than in the worst days of the Darogahs. We did think that it had long ago been agreed that concurrent and co-extensive jurisdictions are a mistake,* yet here we have the old foe in its worst phase again. In each district a Police Superintendent has been appointed to effect the very object for which a Magistrate had been appointed before him. He has his subordinates. So has the Magistrate. Apart from the risk of jealousies and difficulty of acting in concert—jealousies and difficulties, we may observe, that *will* be felt by the native underlings even when there is the best understanding between the chief—apart from this we say, let any of our readers try to calculate the waste of labour entailed by their double establishments. Take, as an illustration, the example of an average district in the North West containing, we will say, from 1,500,000 to 1,800,000 inhabitants. There is a Magistrate with probably from four to five subordinates, covenanted and uncovenanted, who spend one quarter of the year in moving about the circles committed to their charge. There is also a Superintendent of Police, who has to hold the strings of some thirty police stations and, however active, can only visit each of these stations for two or three days in the year. He has one European subordinate, whose time is probably wholly taken up with the details of the English office, another who acts as a sort of personal assistant, and, say, as we are speaking of an average district, two more, who are held in the leash, ready to be let

* And yet it will be recollected that, when in the Legislative Council an unreasonable doubter put this very objection to the chief framer of the measure, he was answered that, as it was so generally acknowledged that the junction of the Police and Magisterial functions was inadvisable, there could be no use in arguing the question. The true mode of meeting inconvenient objections all over the world, from household squabbles up to the administration of an Empire!

slip when anything extraordinary occurs. Want of leisure prevents the Superintendent from remaining for any length of time in any one sub-division, and although this obstacle does not apply to the European subordinates, yet, for reasons to which we have alluded already, it is doubtful whether the expedient of putting half-educated Englishmen in independent charge of out-stations would not be attended with greater harm than good. Meanwhile, the Magisterial officer is on the spot. He has acquired more or less knowledge of the criminal classes in his sub-division. He has gained by practice the indescribable knack, that local knowledge gives, of being able to judge *primâ facie* whether a case is genuine or not. But he cannot be given, except indirectly, the control of the Police, and must not be allowed to collect the evidence of a crime, lest as judge of the case his judgment should be biassed. The result is that work is created for a whole extra establishment of Moonshees, writers (English or native), office keepers and others, and the utmost care is taken to prevent local knowledge from being brought to bear on the investigation of crime. The work that was before done inefficiently by one establishment is now done inefficiently by two, and fully occupies the time of both.

But our objection goes deeper than this. It is not merely that we mourn the waste of local knowledge, but that we hold it as an invariable rule, that the plenary and immediate control of all subordinates should be entrusted to the local officers. It is a part of the evil system of centralization, to which our Government stands from day to day more committed, that some medium is always interposed between the officer who is best acquainted with the facts, and the officer who is vested with full authority. In a word, a written report is thought to be a safer guide for the judgment than personal inspection. Who is so well qualified to judge of the conduct of the Police in the investigation of a crime, as the Magistrate who tries the case? and yet all control of their actions either by punishment or reprimand is carefully denied to him. It is true that he is allowed to bring the matter before the District Superintendent by entering his opinion in a column of the charge-sheet. On this we have two remarks to make. *First*, that there is, in the provision, a needless waste of time. A Magistrate has not only to make up his own mind, but—an infinitely more difficult matter—to convince another also. All the time spent by him in detailing his reasons for the condemnation of any particular practice, and all the time spent by the Superintendent in mastering those reasons, and referring to the papers filed in support of them, is so much thrown

away, and would be economized, if the Magistrate had the power of control in his own hands. *Second*, the condemnatory remarks necessarily present themselves to the Superintendent in the light of a complaint. This fact is quite sufficient to prevent anything like a free use of the opportunity. The temper of every Indian official is too much, and too necessarily, tried during the course of his daily work, to allow of the additional aggravation that would be caused, if one department was constantly occupied in criticizing the conduct of another. With the best intentions, and the utmost forbearance on both sides, an uneasy feeling of jealousy must arise, if a Police Officer were often called upon to punish his subordinates on the report of a Magistrate.

And, to take a less detailed view of the question, what, we ask, is to become of the opportunities, which, bad as it was, the old system offered to an active young officer of 'making his men'? Shall we never again see the spectacle of an Assistant or Deputy Magistrate, while engaged in his cold season camp life, taking his police underlings by the hand, and, knowing that their credit and their efficiency were intimately bound up with his own, entering with them into the more intricate investigations, pointing out the course to be pursued in all emergencies, correcting them sharply when mistaken, stirring them up when lazy, and, by his explanations and advice, giving life to the dry mass of instructions, regulations, and forms that had been set forth as their guide? Is it merely that such opportunities have been made over to the Police Officer, or have they been done away with altogether? We fear the latter. That they have been taken away from the Magistrate is, unhappily, beyond a doubt, for in India the power of training is inseparable from the power of punishing.* That they have in return been made over to the Superintendent is, at least, questionable; for such training implies close attention; and, out of his thirty stations, what minute scrutiny can a Superintendent bestow on one? It implies presence on the spot for some considerable length of time, and we have seen that a Superintendent cannot spend more than two or three days in the year in any one subdivision. It implies, above all, constant verbal admonitions; and, during all but those two or three days, the Superintendent is confined to written orders, which he feels with a sigh, even while dictating them, will be treated as matters of course, and most probably put aside. He can occasionally, when driven to extremes, launch a European Inspector at the head of the offen-

* Where, indeed, is it not?

ders, but, when the visit is past, the effect will pass too and things will return placidly to their usual round.

After this detail of the evils resulting, in our view of the matter, from the separation of Police and Magisterial powers, it is reasonable to weigh the objects which it was intended to attain. The first, a wish to assimilate Indian proceedings to an English state of things may be passed over without remark. Those who base their argument on the necessity of observing English precedents in Indian administration, are beyond our small power of persuasion. We can only wish them a happy, and speedy return to a country whose institutions they believe to be applicable to all societies, and under every kind of different conditions. A second object was, at the time, stated to be the establishment of a uniform organization, and something like military discipline, so that the force might, on an emergency, be used in repressing an *émeute*. In this aim, too, the framers of the measure were, we think, a little influenced by European analogies. Because in Europe the gendarmerie, and in Ireland the constabulary, have in view the repression of disorder as much as the detection of crime, it was therefore imagined that a similar organization was needed out here. If the Inspector General thinks that his force could be relied on in case of any general *émeute*, then, to him too we have nothing to say. We think, however, that his experience in Allahabad in 1857-1858 has taught him another lesson than this. As a matter of fact the old *burkundazes* were found quite adequate to meet any of the petty disturbances ordinarily likely to occur, and even if it should be thought advisable to infuse some Military discipline into the new force, we do not see why this should not be effected through a Civil Magistrate quite as well as under a Superintendent, whose time is, as a matter of fact, occupied to the full with office work of a purely civil nature. The chief object, however, of the measure was the alleged necessity of separating the task of prosecution from that of judgment—the impolicy of exposing an officer to be biassed in his decision of a case by his own previous exertions in tracing out evidence of the crime. We have referred to this before, and we now return to it more fully. It is certainly true that the three functions of Government Prosecutor, Judge, and Counsel for the defendant were often united in the same person. We doubt however whether, after the first novelty, any one felt himself seriously embarrassed by the incompatibility of these three offices. Practice, and the consciousness of the great interests of justice at stake, enable most men to preserve their impartiality even when they are successively called

upon to superintend the efforts to detect a criminal, to weigh the proofs thus collected, and to bring forward in as strong a light as possible the various pleas in behalf of the defendant. Indeed, would men but throw themselves heart and soul into the situation, the habit of considering all the facts brought out in a trial from these three different points of view is the most effectual training, that could be devised for the attainment of a judicial frame of mind. An energetic searcher for the truth under its various disguises is far more likely to weigh all points, than a passive recipient of varying statements as they are successively produced. Be this as it may however, the necessity, and the risk are absolutely the same—neither more nor less in any way—under the new system as under the old. The evidence produced spontaneously on the day of trial is so scanty and irrelevant, the witnesses are often so reluctant, that a Magistrate has perforce, now as before, to resort to the arts of a counsel for the prosecution to worm out the convincing proofs of the crime. The true cause of distinction between our courts and those at home was not the junction of the duties of Magistrate and Police officer, but the absence of well-trained counsel, able, as in England, to unfold all the pleas on both sides. At home a deciding officer is so sure that each party will put in their most forcible light all the facts supporting his view of the case, that he can reserve all his attention for the task of discriminating and balancing. In a word, the cross-examination of witnesses is conducted for him and not by him. Out here, on the contrary, a native 'Mooktar' is so wholly untrained in the principles of evidence, he so invariably mistakes the true issue of the case, and is so sure to miss the distinction between relevant and irrelevant facts, that, we believe, in the greater number of instances he is quietly put aside, and the cross-examination conducted in person. In this respect not the slightest change has been produced by the new measure in the practice of any Court; and as long as this continues the case, so long will the separation of Police and Magisterial functions fail to reduce whatever risk of bias there might have been of old.

The conclusion of the whole matter is this. We must narrow instead of widening the extent of jurisdiction, and give each officer plenary power in his own sub-division. If, with a centralized system, and well mapped gradation of authorities, we wish to secure the masses from the oppression of the Police, we must curb these latter at every point, and thus reduce to a minimum their utility as ministers of justice. If, with the same system, we place the certain detection of crime above all other considerations, we must allow free elbow room to

the Police, and then—with the controlling officer at a distance and overwhelmed with details—we simply hand over the population to the wicked will of the most shameless set of petty despots that the world has seen since the provincial tyrants of the Lower Empire. If, on the contrary, upsetting centralization, throwing aside the nice sub-division of labour, which in India is a bar to usefulness, we lay down, as the basis of all Police Reform, the principle that every native underling shall be exposed to the most minute supervision—*then*, we may, with comparatively little fear of abuse make over to them powers for the detection of crime, that on any other system would be assuredly turned into engines of oppression and extortion: we may allow the employment of a special class of detectives, sure that special attention can at any moment be given to their doings: we can permit a chief constable to record evidence, and, if need be, to take down confessions, because we know that every kind of abuse is rendered impossible in exact proportion to the opportunities of frequent personal investigation: In fine, we can trust our police officials, because we can be sure that, to an officer on the spot, untrustworthiness cannot long remain unknown. It may be said that no officer can remain always on the spot; and this is true. But the moral effects of a personal investigation extend far beyond the immediate occasion. A few searching enquiries every cold season—some retrospective, into the transactions of the past summer—would suffice to establish a check. A subordinate feels that he is under supervision not only when every one, but also when *some*, he is not sure which, of his many acts will be carefully examined.

Minute supervision implies minute jurisdictions. Every Magistrate, every Assistant, every Deputy should be *ex-officio* Superintendent of Police in his own circle. The extra Police establishment thus rendered unnecessary would pay for two additional officers (military if need be) in every district. We should gladly welcome a measure by which in every district a numerous staff of officers military, covenanted and uncovenanted, with separate jurisdictions but one common object, would be forced into wholesome rivalry as to the smartness and efficiency of their several establishments.

But however sound the principle on which Police-Reform in Bengal may be based, nothing will be effected without an improvement in the material. We must begin with the beginning—the *origo mali*—the Police themselves. First of all their pay must be increased. The sacrifice of a few constables in every Station, and of a European inspector here and there, would be

amply counterbalanced if the pay of each chief constable could be increased to forty or fifty rupees a month. Next, their tenure of office should be rendered as secure as possible. It should be generally understood, that frequent change of instruments is the sure mark of inefficiency in the central authority. Above all, nothing should be left undone to raise their status, now so low in the eyes of themselves, and of the people at large.

Let these suggestions be looked to when the constabulary is introduced into the Lower Provinces. Bengal may rest assured that the opinions we have here expressed, are those of nearly all the Magistrates and many of the Superintendents of the North West ; and that, where such sentiments are not openly expressed, silence is caused by a laudable fear of hampering a new order of things in its infancy. If we have not ourselves imitated such scrupulous reticence, it is not assuredly that we are more wedded to the old system, but because what we consider the failings of the new Police, have now so clearly manifested themselves, that it becomes an imperative necessity to guard against the possibility of similar errors in any Province to which Reform may now be extended. If the long delay results in securing to Bengal thus much benefit from the experiment in the North West, *then*, once more, will procrastination deserve the reputation of having been, unconsciously, the most statesman-like course possible.*

* It will, we fear, seem ungracious to devote a whole article to the evils of a measure, and reserve all mention of its benefits to a foot note. Among the latter is the injunction that no policeman shall have any thing to do with impressment (*begarce*). This is in fact a whole measure of reform in itself. Of its merits in relieving a neighbourhood of its worst fears, and internal trade of its worst impediments, we cannot speak too highly. Among the minor benefits are the Superannuation Fund, which, however, too few will remain long enough in the force to enjoy, the increase in the pay of the private constables, and the admirable expedient of quartering an additional force of police on a mutinous or exceptionally criminal neighbourhood.

ART. VII.—*The Theogony of the Hindus.* By Count M. Björnstjerna. Svo. London: Murray. 1844.

2. *Sir W. Jones's Works.* Vol. 3. Svo. London: Stockdale, 1807.

3. *Religious Aspects of Hindu Philosophy.* By Rev. J. M. Mullens. Svo. London: Smith, Elder & Co., 1860.

A CENTURY has passed since first the British rule began to show its superiority over the effeminate luxury that reigned supreme throughout the Courts of the Mahomedan Conquerors of India. Nearly three hundred years ago, armed with Bulls and Anathemas the disciples of Ignatius Loyala commenced their attack on the tenets of a people grovelling in heathen darkness—a people groaning under the weight of a vile superstition—the tools of a priesthood notorious alike for avarice, dissimulation, and vice. We look almost in vain over the past for any result of the presence in their midst of the worshippers of the true God.

The Astronomer gazes through the wide world of space, predicting to a moment the advent of the various phenomena of the heavens; the Geologist brings us a handful of earth, or a semi-pulverised bone, and tells us that these existed, it may be millions of ages, before man was created,—statements in themselves startling, but nevertheless undeniable truths; the Ethnologist takes in his hand a bleached skull, and, though ages have rolled away since the pulse of life ceased to throb on its whitened temples, yet with an accuracy that baffles contradiction, he defines the race to which in life it belonged; but has the antiquarian or historian been as yet able to give us any conclusive evidence as to whence sprang that awful superstition that rules, as it were with a rod of iron, the minds of the millions of India?

Sir William Jones, has attempted to adduce facts to prove that the idol worship of India was borrowed from that of Greece and Italy: but as men, totally separate from each other, nations between whom no intercourse ever existed, have worshipped similar gods under different names and forms; similarity in idolatry is

no proof that the worship of one set of idolators was borrowed from another set; the only thing that it does prove is, that the minds of such men are continually searching, as a subject of worship, some object that appears to them clothed with mystery, majesty, and awe.

Idolatry, or more strictly speaking mythology, seems to have four principal sources.

I. Historical, or natural truth has often been perverted into fable, by ignorance, or imagination, and yet more often by the cunningly devised falsehoods of a power-loving and covetous priesthood; the hieroglyphics of the old Egyptian temples, the oracular responses of the Delphian grove, the awe in which the Brahmins are held by the Hindus, all corroborate this latter supposition; and we do not hesitate to assert that it is chiefly from this source that the Theogony of the Hindus has had its origin.

The following lines of Virgil show how a natural fact, by means of imagination became perverted into a superstition that held its sway over at least two of the greatest nations the world ever saw the Grecian and Roman :

Dextrum Scylla latus, lævum implacata Charybdis
Obsidet, atque imo barathri ter gurgite vastos
Sorbet in abruptum fluctus, rursusque sub auras
Erigit alternos et sidera verberat unda.
At Scyllam cæcis cohibet spelunca latebris
Ora exsertantem, et naves in saxa trahentem.
Prima hominis facies, et pulchro pectore virgo
Pube tenus; postrema immani corpore pistrix
Delphinum caudas utero commissa luporum.

II. The next source of idolatry seems to be derived from a wild admiration of the heavenly bodies; the imagination that the sun is the most glorious of all created things has caused whole nations to bow in adoration before its resplendent orb, and to ascribe to it the honours due to a God, nay more, the altars of the sun in Mexico have reeked with the blood of seventy thousand victims, a single sacrifice to appease his imagined wrath; the untutored savage in the wilds of the forest stretches forth his hands in prayer to the sun as to a god; the more enlightened Parsee owns it as his supreme deity.

III. Numberless divinities have been created solely by the magic of Poetry—the Odyssey and Iliad of Homer, and the Ramayana of the Hindu are undeniable proofs of this; in almost every play of Æschylus we have a deity as the unraveller of the

mystic plot. Horace ever fertile in addresses to the heathen deities, thus invokes Diana ;

Montium custos nemorumque, Virgo,
Quæ laborantes utero puellas
Ter vocata audis, adimisque leto,
Diva triformis ;
Imminens villæ tua pinus esto,
Quam per exactos ego lætus annos
Verris obliquum meditantis ictum
Sanguine donem.

IV. The metaphors and allegories of moralists and metaphysicians have also been very fertile in deities ; Plato, Cicero, and Homer teem with proofs of this ; in Indian mythology we have ‘ Maya ’ represented as the mother of universal nature, and of all the inferior Gods.

The modern Hindu is but a bad model of his predecessors ; he has sadly degenerated from the majesty and pride of his forefathers ; he has lost all their nobler spirit, and inherits only their superstitions and vices. If we consult history we shall find that the five principal nations, who in different ages divided amongst themselves the mighty continent of Asia, with the many Islands depending on it are the Hindus, the Chinese, the Tartars, the Arabs, and the Persians ; of these nations our attention will be fixed only on the first ; of these five nations not one has borrowed its religious tenets from the other ; idol-worship of almost every form may be found amongst them, yet the form of worship of each is perfectly distinct from those of the others ; this goes far to support our supposition that the idolatry of the Hindu is not borrowed from that of either the Greek or Roman. In describing the people of India Mr. Lord thus remarks, ‘ A people presented themselves to mine eyes clothed in linen garments somewhat low descending, of a gesture and garb, as I may say, maidenly and well nigh effeminate, of a countenance shy and somewhat estranged, yet smiling out a glozed and bashful familiarity.’ Mr. Orme, the Historian of India, observes of the same people—‘ this country has been inhabited from the earliest antiquity by a people, who have no resemblance, either in their figure, or manners with any of the nations contiguous to them,’ and that ‘ although conquerors have established themselves at different times in different parts of India, yet the original inhabitants have lost very little of their original character.’ Though now degraded and abased, yet we cannot doubt that there was a time when the Hindu race was splendid in arts and arms, happy in government, wise in legislation, and eminent in knowledge ; their fall!

is in a great measure attributable to the immense hold the priesthood has had over their minds, gained by means of superstition and Idolatry. Their original language, the Sanscrit, surpasses every language save the Hebrew in its wonderful structure; more refined than Greek, more copious by far than Latin. That the Hindus were in former times a commercial people we have every reason to believe,—the labours of the Indian loom have been universally celebrated, silk has been fabricated immemorially by the Hindus. We are also told by the Grecian writers that the Indians were the wisest of nations, and in metaphysical wisdom they were certainly eminent: in astronomy and mathematics they were equally well versed; this is the race who Dionysius records—

‘ First assayed the deep,
 ‘ And wafted merchandize to coasts unknown.
 ‘ Those, who digested first the starry choir,
 ‘ Their motions marked, and called them by their names.

But now how fallen, all their splendour gone, their once renowned energy for ever fled, of all that graced their nation not one relic left.

We now come to the chief subject of our article ‘the Gods of India,’ of whom we shall be able to give but a brief sketch, inasmuch as a full account of each of them would require a separate volume; but we hope that, from the little we may say in regard of them, we shall be able to convince our readers, that the Mythology of the Hindu is one not borrowed from that of any other nation.

We begin with Ganesa, the god of wisdom, who is represented with an Elephant’s Head, the symbol of sagacious discernment, and attended by a favourite rat, which the Indians consider a wise and provident animal; all sacrifices and religious ceremonies, all addresses even to superior gods, all serious compositions in writing, and all worldly affairs of moment are begun by pious Hindus with an invocation to Ganesa, a word composed of Isa, the Governor or Leader and Gana a company of Deities, nine of which companies are enumerated in the Amarcosh. M. Sonnerat represents this Deity as highly revered on the Coast of Coromandel; ‘where’ says he, ‘the Indians would not on any account build a house, without having placed on the ground an image of this deity, which they sprinkle with oil and adorn every day with flowers; they set up his figure in all their temples, in the streets, in the high roads, and in open plains at the foot of some tree; so that persons of all ranks may invoke him, before they undertake any business, and travellers worship him before they proceed on their

‘journey’. It has been attempted to be proved but with little success that this deity was the same as that worshipped by the Romans under the title of ‘Janus,’ the supposition being founded on the following couplet taken from Sulpitius.

‘Jane pater, Jane tuens, Dive biceps, Biformis,
O cate rerum sator, O principium Deorum !

It is only in the words ‘Principium Deorum’ that there is even the shadow of similarity ; but similarity, as we before stated, is in idolatry no proof that the gods worshipped are the same.

Menu or Satyavrata, whose patronymic was Varvaswata, ‘Child of the Sun,’ has in like manner been compared with the God Saturn of the Romans, but with as little success. This Hindu Deity, Menu, was believed to have reigned over the whole world in the earliest time, but to have resided in the country of Dravira on the coast of the Eastern Indian Peninsula ; the following narrative of the principal event in his life is taken from the Bhagavat, and is the subject of the first Purana, entitled that of the Mutrya or Fish.

‘Desiring the preservation of herds, and of Brahmans, of
‘genii and virtuous men, of the Vedas, of law, and of precious
‘things, the Lord of the Universe assumes many bodily shapes ;
‘but, though he pervades, like the air, a variety of beings yet
‘he is himself unvaried, since he has no quality subject to
‘change. At the close of the last Kulpa, there was a general
‘destruction occasioned by the sleep of Brahmá ; whence his
‘creatures in different worlds were drowned in a vast ocean.
‘Brahmá being inclined to slumber, desiring repose after a lapse
‘of ages, the strong demon Hayagriva came near him, and
‘stole the Vedas, which had flowed from his lips. When Heri
‘the preserver of the universe, discovered the deed of the Prince
‘of Danavas, he took the shape of a minute fish, called Sap’hari.
‘A holy King, named Satyavrata, then reigned, a servant of
‘the Spirit, which moved on the waves, and so devout that
‘water was his only sustenance. He was the Child of the Sun,
‘and in the present Kulpa is invested by Narayan in the
‘office of Menu by the name of Sraddhadeva or the God of
‘Obsequies. One day as he was making a libation in the
‘river Kritamala, and held water in the palm of his hand,
‘he perceived a small fish moving in it. The King of Dravira
‘immediately dropped the fish into the river together with the
‘water, which he had taken from it, when the Sap’hari thus
‘pathetically addressed the benevolent monarch ; “How canst
‘“thou O King, who showest affection to the oppressed leave me
‘“in this river water, when I am too weak to resist the monsters

“ of the stream, who fill me with dread ?” He not knowing who had assumed the form of a fish, applied his mind to the preservation of the Sap’hari, both from good nature, and from regard to his own soul ; and having heard its very suppliant address, he kindly placed it under his protection in a small vase full of water ; but in a single night, its bulk was so increased, that it could not be contained in the jar, and thus again addressed the illustrious Prince ; “ I am not pleased with living miserably in this little vase ; make me a large mansion where I may dwell in comfort.” The King removing it thence, placed it in the water of a cistern ; but it grew three cubits in less than fifty minutes, and said ; “ O King, it pleases me not to stay vainly in this narrow cistern ; since thou hast granted me an asylum, give me a spacious habitation.” He then removed it, and placed it in a pool, where having ample space around its body, it became a fish of considerable size. “ This abode, O king ! is not convenient for me who must swim at large in the waters ; exert thyself for my safety ; and remove me to a deep lake” ; thus addressed, the pious monarch threw the suppliant into a lake, and when it grew of equal bulk with that piece of water, he cast the vast fish into the sea. When the fish was thrown into the waves, he thus again spoke to Satyavrata ; “ here the horned sharks, and other monsters of great strength will devour me ; thou shouldest not, O valiant man, leave me in this ocean.” Thus repeatedly deluded by the fish, who had addressed him with gentle words, the king said ; “ who art thou that beguilest in that assumed shape ? Never before have I seen or heard of so prodigious an inhabitant of the waters, who like thee, hast filled up, in a single day, a lake a hundred leagues in circumference, surely thou art Bhagavat, who appearest before me : the great Heri, whose dwelling was on the waves ; and who now, in compassion to thy servants, bearest the form of the natives of the deep. Salutation and Praise to thee, O first male, the Lord of Creation, of preservation, of destruction ! Thou art the highest object, O Supreme Ruler, of us thy adorers, who piously seek thee. All thy delusive descents in this world give existence to various beings ; yet I am anxious to know, for what cause that shape has been assumed by thee. Let me not, O Lotus-eyed, approach in vain the feet of a deity, whose perfect benevolence has been extended to all ; when thou hast shewn us to our amazement the appearance of other bodies not in reality existing, but successively, exhibited.” The Lord of the Universe, loving the pious

‘man, who thus implored him, and intending to preserve him
‘from the sea of destruction, caused by the depravity of the age
‘thus told him how he was to act. “In seven days from the
‘“present time, O thou tamer of enemies, the three worlds will be
‘“plunged in an ocean of death: but, in the midst of the des-
‘“troying waves, a large vessel, sent by me for thy use, shall
‘“stand before thee. Then shalt thou take all medicinal herbs,
‘“all the variety of seeds; and, accompanied by seven saints,
‘“encircled by pairs of all brute animals, thou shalt enter the
‘“spacious ark and continue in it, secure from the flood on
‘“one immense ocean without light, except the radiance of
‘“thy holy companions. When the ship shall be agitated
‘“by an impetuous wind, thou shalt fasten it with a large sea
‘“serpent on my horn for I will be near thee; drawing the
‘“vessel, with thee and thy attendants. I will remain on
‘“the ocean, O chief of men, until a night of Brahma shall be
‘“completely ended. Thou shalt then know my true greatness,
‘“rightly named the supreme Godhead; by my favour, all thy
‘“questions shall be answered, and thy mind abundantly in-
‘“structed.” Heri, having thus directed the monarch, disappear-
‘ed; and Satyavrata humbly waited for the time, which the
‘ruler of our senses had appointed. The pious King, having
‘scattered towards the East the pointed blades of the grass
‘Durbha, and turning his face towards the North, sat medita-
‘ting on the feet of the God, who had borne the form of a fish.
‘The sea overwhelming its shores, deluged the whole earth;
‘and it was soon perceived to be augmented by showers from
‘immense clouds. He, still meditating on the command of Bha-
‘gavat, saw the vessel advancing, and entered it with the chiefs of
‘Brahmans, having carried into it the medicinal creepers, and
‘conformed to the directions of Heri. The saints thus addressed
‘him; “O King, meditate on Cesava; who will surely deliver us
‘“from this danger, and grant us prosperity.” The God being
‘invoked by the monarch, appeared again distinctly on the
‘vast ocean in the form of a fish, blazing like gold, ex-
‘tending a million of leagues, with one stupendous horn;
‘on which the king, as he had before been commanded by
‘Heri, tied the ship with a cable made of a vast serpent,
‘and, happy in his preservation, stood praising the destroy-
‘er of Madhu. When the monarch had finished his Hymn, the
‘primeval male Bhagavat, who watched for his safety on the
‘great expanse of water, spoke aloud to his own Divine essence
‘pronouncing a sacred Purana which contained the rules of the
‘Sank’hya philosophy; but it was an infinite mystery to be

‘concealed within the breast of Satyavrata; who sitting in the vessel with the saints, heard the principle of the soul, the eternal Being proclaimed by the preserving power. Then Heri, rising together with Brahmá, from the destructive deluge, which was abated slew the demon Hayagriva, and recovered the sacred books. Satyavrata instructed in all divine and human knowledge, was appointed in the present Kulpa by the favour of Vishnu, the Seventh Menu, surnamed Vaivaswata; but the appearance of a horned fish to the religious monarch was Maya or delusion; and he, who shall devoutly hear this important allegorical narrative will be delivered from the bondage of Sin.’ In the foregoing narrative we have the story of the universal deluge, as described in the book of Genesis, and referred to by both Greek and Roman authors; though in the language of allegory, it is in itself very important, as it fixes the probable date, from which Hindu mythology actually begins.

We next come to Indra, the King, and the resemblance between this deity and the Jupiter of the Romans is in some instances very striking, and would almost lead us to suppose that it was the same deity under a different name, but yet the similarity ceases where we should have expected it to be strongest, inasmuch as he is not the ‘*maximus Deorum*’ in the Hindu Mythology, being far inferior to the Indian Triad, Brahmá, Vishnu, and Mahadeva; and therefore not entitled to the epithets of Magnus, Divus, Ultor, as regards his destroying power, nor yet to the appellations of Conservator, Soter, Opitulus, Altor, and Ruminus, in connection with his creating and preserving power.

It must always be remembered that the learned Hindus, as they are instructed by their own books, in truth acknowledge only one Supreme Being whom they call Brahma, or the Great One, in the neuter gender; they believe his essence to be infinitely removed from the comprehension of any mind but his own; and they suppose him to manifest his power by the operation of his divine spirit, whom they name Vishnu, the Pervader, and Narayan, or moving on the waters, both in the masculine gender; whence he is often denominated the first male; and by this power they believe, that the whole order of nature is preserved and supported.

That water was the primitive element, and first work of the creative power, is the uniform opinion of Hindu philosophers; Menu the son of Brahmá, is asserted thus to have addressed the sages, regarding the creation of the world; ‘This world was all darkness, undiscernable, undistinguishable, altogether as in a profound sleep, till the self-existent invisible god, making it manifest with five elements, and other glorious forms, perfectly dispelled

‘gloom. He desiring to raise up various creatures by an emanation from his own glory, first created the waters, and impressed them with a power of motion, by that power was produced ‘a golden egg, blazing like a thousand suns, in which was born ‘Brahmá, self-existing, the great parent of all rational beings. ‘The waters were called Nara, since they were the offspring of ‘Nara (or Jawara) and thus was Narayana named, because his ‘first ayana or moving was on them. That which is, the invisible ‘cause, eternal, self-existing, but unperceived, becoming masculine *from neuter*, is celebrated among all creatures by the name ‘of Brahma. That god having dwelt in an egg, through revolving years, Himself meditating on Himself, divided it into two ‘equal parts; and from these halves formed the heavens and the ‘earth; placing in the midst the subtle ether, the eight points ‘of the world, and the permanent receptacle of waters.’

Here we have no borrowed deity; the power of Jupiter, like the mist before the refulgent orb of day, vanishes before the stern majesty of Brahma, the honours paid to Jove are as baubles to those offered to the egg-born god, at whose awful shrine priest and people bow in blind superstition. It is by traditions such as these that the Brahminical priesthood have gained their supremacy over the millions of India.

We now come to the two great incarnate Deities of the first rank, Rama and Krishna.

Rama, is believed by the Hindus to have been an appearance on earth of the preserving power, to have been a conqueror of the highest renown, and the deliverer of nations from tyrants, as well as of his consort Sita from the Giant Ravana, King of Lanka, and to have commanded in chief a numerous and intrepid race of those larger monkeys denominated Indian Satyrs; his general the Prince of Satyrs, was named Hanaman, or with high cheek bones; with such agile workmen, he soon raised a bridge of rocks over the sea, (as described in the Iliad of India the Ramayan,) part of which the Hindus assert remains to this day: these large monkeys are yet held sacred by the Brahmins and others, who travel long distances with offerings of food and fruit, to the places which they inhabit.

The second great incarnation, Krishna, passed a life of a most extraordinary, and incomprehensible nature. He was the son of Devaci by Vasudeva; but his birth was concealed, through fear of the Tyrant Cansa, to whom it had been predicted that a child born at that time in that family would destroy him; he was fostered by a herdsman named Ananda, or Happy, and by Yasoda the wife of Ananda. That sect of Hindus

who adore Krishna with enthusiastic, and almost exclusive devotion, have broached a doctrine which they maintain with eagerness, and which seems to be pretty general, viz: that Krishna was distinct from all the avatars,—that they had only a part of his divinity, while he was Vishnu himself in human form.

Such then is a very imperfect sketch of the principal deities of the Hindu mythology, to describe all, such as Ganga, Sureja, Nareda, Kali &c. would fill volumes; we will now examine briefly the philosophy of the Hindu Schools adduced from this motley assemblage of idol gods; 'their idols are silver and gold the work of men's hands. They have mouths, but they speak not; eyes have they, but they see not. They have ears, but they hear not; noses have they, but they smell not; they have hands, but they handle not; feet have they, but they walk not; neither speak they through their throat; they that make them are like unto them; so is every one that trusteth in them.'

'There is only one God, Brahma, omnipotent, eternal, omnipresent, the great soul, of which all other gods, are but parts'; thus begins the Vedas, the Bible of the Hindus, and on this doctrine is based the whole of the religion of the Brahminical priesthood; they firmly believe in the immortality of the soul, a belief which places them far in advance of any other race of idolaters; the following quotation taken from the Vedas, proves without doubt that a nation holding the doctrine inculcated therein, could not have borrowed its tenets from the philosophers of either Greece or Rome; 'O Ruler! we wish to know how the soul is united with the body; how the world was created; how the soul comes into conjunction with the divine; what is the magnitude and measure of the universe, of the sun, the moon, the stars, and the earth; and what is the end of all?' Here are propositions, not philosophical like those stated by Cicero in his 'De Senectute' or in his 'Quæstiones Tusculanæ,' but still indicative of an anxious enquiry into a future state.

Brahminism is now divided into several branches, each of which has many sub-divisions.

The following are the three principal branches; 1st, Vedantism, so named after the Vedanta of Vyasa. It has few adherents, consisting of some philosophical Brahmins. Of the thousands of temples in India consecrated to various deities, only one is consecrated to this doctrine, in which Brahma is worshipped alone.

2nd, Vishnuism; this doctrine raises the second person of the

Hindu Triad (Vishnu) to the highest place, and adores his different avatars, together with a multitude of other deities, powers of nature, and mythical persons. Its professors are styled Vaishnavas.

3rd, Sivaism; this doctrine places the third person of the Hindu Triad (Siva) highest in the rank of the Gods. The professors of this doctrine call themselves Saivas and their number amounts to many millions more than the professors of Vishnuism. Although Seva is the God of Destruction, he is also the God of Production, considered with respect to the idea, which ever pervades the doctrine of Brahma, namely, that death is but the re-commencement of a new life.

The Hindu system of Philosophy termed Sankhya, was apparently the earliest of all the systems that preceded the really Philosophic age of the Hindu Schools. Its author is said to have been Kapila, who is asserted to have been a son of Brahmá, and an incarnation of Vishnu; he is numbered among the seven great saints, and many marvels are ascribed to him. While using Vedic notions, he in the main departed from Vedic theories, and in all important particulars comes to conclusions diametrically opposed to what the Vedas teach.

The Sankhya system contains two grand divisions, which differ on the vital question of the existence of a God; one is termed the 'Seswara Sankhya' that which owns a God; the other is called 'Niriswara Sankhya' or that which denies the very existence of a God; the latter was Kapila's system; a system at that time entirely new, it taught that there were two primary agencies, 'nature or matter' and 'Souls'; but that there was no 'supreme being.' He asserts as follows; 'Souls have existed in multitudes from eternity, by their side stands nature or matter; for eternal ages the two remained separate; at length they became united, and the universe in all its forms was developed from their union.'

The object of the Sankhya, as well as of the other branches of Hindu Philosophy, is the removal of human pain by the final and complete liberation of the individual soul. The Sankhya system has twenty-five principles to which the soul must apply itself as objects of knowledge, and in respect to which true wisdom is to be acquired. They are;

1st.—Nature, termed 'Pradhan' or chief, from being the universal material cause, the prime cause of all things.

2nd. Intelligence, the first product of nature, increate, prolific, itself productive of others.

3rd. Self-consciousness, its peculiar function is the recognition

of the Soul in its various states; it is the product of Intelligence, and itself produces.

4th.—8th. Five principles, subtle particles or atoms of things. These are imperceptible to the gross senses of human beings, but may be known by superior intelligence; then follow—

9th.—19th. The organs of sense and action, of which ten are external and one is internal. The organs of sense are five; the organs of action are five. The mind serves both for sense and action.

20th—24th are five elements produced from the five subtle particles;

1st, Ether, this has the property of audibleness, being the instrument of sound.

2nd, Air which has two properties; it is audible, and it can also be touched.

3rd, Fire; this has three properties, audibility, tangibility, and colour.

4th, Water; possessed of four properties, audibility, tangibility, colour and taste.

5th, Earth; possessed of five properties, audibility, tangibility, colour, taste and smell.

25th. The last principle is Soul: like nature it is not produced but is eternal, but unlike nature it produces nothing from itself; it is multitudinous, individual, sensitive, eternal, immaterial.

The great error then that lies at the root of this Sankhya system is, that the products of matter and mind are blended and confounded together.

The next system is that attributed to Gautama, namely, the Nyaya system, which considers by means of subtle and logical argument, the true mode of inquiring after Truth; and has surveyed the whole field of this argument more exactly and completely than any other of the Hindu systems.

The first inquiry of this system is 'what is the way to attain perfect beatitude?' and the answer given is 'That that deliverance is only to be secured by a knowledge of the Truth.'

It then proceeds to examine what instruments are best adapted for the acquisition of that deliverance, and comes to the conclusion that they are four in number, namely, perception, inference, comparison and testimony.

It then minutely examines the various objects of knowledge, which are required to be proved and known; which objects are twelve in number: soul, body, sense, object, knowledge, the mind, activity, fault, transmigration, fruit, pain and beatitude.

We now come to the Vedantic system, which makes its

appearance in three stages of development. The germs of this philosophy and even its principal doctrines are contained in the Brahmanas of the Vedas; then it is seen in a more complete form in the Sutras of Vyasa; and lastly, this philosophy is recorded in the great commentaries which eminent scholars have written upon the original authorities.

The voice of Hindu antiquity ascribes the origin of the Vedantic system to the sage Badarayan, otherwise named Veda-Vyasa. The manner of his birth is thus described in one of the works attributed to him, 'the Mahabharat;' 'His father Parasana Muni, 'struck with the beauty of a fisherman's daughter on the banks of 'the Yamuna, conveyed her to an island in the river, which he 'produced for her residence; and there a son was born to them; 'from his birth-place, and his dark complexion, he was called '“ Krishna-dwaipayana ” “ the dark islander.” From the time of 'his birth he became, like Yajñawalkya, and other great scholars, 'an ascetic in the woods. All his time was spent in the practice 'of religious austerities, and in meditation on religious subjects.'

'By the force of his meditations, Vyasa attained astounding 'wisdom, and prepared within his mind an immense array of Hindu 'learning, as he was reflecting on a proper person to aid him in 'writing it down Brahmā appeared, and advised Ganesa to be 'sent for. The God of Wisdom therefore became his Secretary, 'and amongst the works which he dictated, forth came the 'Mahabharat.'

The Vedānta has one great advantage over all the other systems of Hindu Philosophy, in that it is able to appeal for its authority to another class of works more ancient than the Sutras, and forming a part of the Vedas, the sacred testimony of the Hindu belief.

'The name Vedānta,' says the Vedānta Sar, 'applies to the 'arguments of the Upanishads, also to the Saririk Sastras, and 'other shastres auxiliary thereto,' it is also defined 'as the 'system by which may be obtained the knowledge of Brahma.' The aim of the system is to show the unity between the sentient souls of individual men, and Brahma, the great soul in its pure state. There are three classes of passages contained in the various Vedantic authorities, which teach the perfect identity between Brahma and the universe; that is the doctrine of Pantheism; numerous passages and expressions most strongly imply it, and numerous illustrations are employed to explain it.

The doctrine of Pantheism is directly taught in passages such as the following; 'Brahma is the substance of the universe; for 'so the propositions in the Vedas, and their illustrations require'

(Sutras 1, 4, 23). 'Nothing exists but He' (Sutras 3,2,29). 'I am the sacrifice; I am the worship; I am the drug; I am the incantation; I am the fire; I am the incense;' (Gita IX) 'Fire is that original cause; the sun is that; so is air; so is the moon; such is that pure Brahma; and those waters; and Prajapati—it is he who is in the womb; he who is born; and he who will be produced.'

Such then is a brief sketch of the principal Philosophical systems of the Hindu Schools; systems that confound mind with matter, that at one time surround the Deity with beatific honours; and at another bring him lower than the works of his own creative power; let us cursorily glance at the errors taught by these wide-spread, and ancient systems.

In the Sankhya system we have five Doctrines. 'The denial of the existence of a God;' this fact of the Sankhya belief is argued most logically, and in strict accordance with the most approved method of modern secularism, namely, the doubting the sufficiency of evidence which is offered to prove His existence.

'Matter is eternal in man,' all realities by the Sankhya doctrine are included, as before stated, within twenty-five principles, of which twenty-four, not including Soul, as that stands apart from all the rest, are reducible to one, and that one is intellect; but intellect is traced up to nature, therefore nature is eternal: 'From the want of a root in a root, the root of all is rootless.' This then is the end of the Sankhya system, but it is further added, 'even if there be a succession of causes there is a halt, at some one point; and so it is merely a name;' but this '*one point*' of this system is nature or matter, which therefore is the root of all.

'Soul is eternal,' 'Soul is distinct from body, and from Nature, for it does not possess the three qualities, by which they are marked in all their forms' (Sutra 142) 'Soul superintends nature' (Sutra 143) 'Soul is the enjoyer of every thing' (Sutra 144) 'Since light does not pertain to the unintelligent, it must pertain to the essence of Soul; which while self-manifesting, manifests also whatever else is perceptible (Sutra 146). 'There cannot be liberation where there is alteration; and alteration must take place where there are qualities and susceptibilities.' But the Soul, according to this doctrine, is devoid of qualities, so it has no alteration, therefore it is free; but it advocates Soul not as one single object, or attribute, but as multitudinous. 'It is absurd,' says Kapila 'to think that Souls can be one;' and again in Sutra 150; 'From the several allotments

‘of birth and death, a multiplicity of Souls is to be inferred.’

‘Transmigration of Souls;’ the fact of Transmigration none of the systems dispute, it is allowed by all; ‘as a man casts off his old garments, and puts on new ones, so the soul having left its old mortal frame, enters into another which is new.’ ‘One Soul, and not another, is born, there may be various unions of one Soul, according to the difference of receptacle; as the ether may be confined in a variety of vessels.’ ‘Life is the combination of Soul with the pains incident to the body, not any modification of the Soul itself; Death is the abandonment of those bodies, not the destruction of the Soul.’ The Soul remains unchanged through all its migrations into various forms, until its final liberation; it is the disguise which is changed, not the agent who wears it.’ This doctrine of metempsychosis seems to have been very wide-spread in both the Grecian and Latin Schools of Philosophy; the Egyptians, the Pythagoreans, the Platonists, all held the doctrine of the migration of the Soul among various bodies; Horace in allusion to the current story of Pythagoras and Empedocles thus writes, first in Book I. Ode 28.

‘Te maris, et terræ numeroque carentis Arenæ
 ‘Mensorem cohibent, Archyta,
 ‘Pulveris exigui prope littus parva Matinum
 ‘Munera; nec quicquam tibi prodest
 ‘Aërias tentasse domos, animoque rotundum
 ‘Percurrisse polum, morituro.
 ‘Occidit, et Pelopis genitor, conviva deorum;
 ‘Tithonusque remotus in auras,
 ‘Et Jovis arcanis Minos admissus: habentque
 ‘Tartara Panthoiden, iterum Orco
 ‘Demissum; quamvis clypeo Trojana refixo
 ‘Tempora testatus, *nihil ultra*
 ‘Nervos atque cutem morti concesserat atræ.

and again in the Epistles Book I. 12.

‘Empedocles, an Stertinium deliret acumen’
 . ‘Verum seu pisces, seu porrum, et cæpe trucidas,
 ‘Utere Pompoio Grospho.’

‘The doctrine of Fate.’ This doctrine attributes all the pain, the gloom, the misery and the happiness of human life, to the connection of Soul with nature; and all these feelings it asserts are the natural offspring of tendencies of things, of the dispositions with which the individuals have been endowed; moreover that these dispositions originated with the creation, or more strictly speaking, with the first structure of the subtile bodies

from nature; therefore, by this mode of reasoning it is clearly established, that all the misery or happiness, and the conduct of each individual Soul has resulted naturally and from necessity by means of these innate dispositions; this then is the basis of the doctrine of Fatalism; a fatalism devoid of a ruling power, inasmuch as the Sankhya philosophy denies the existence of a god; a fatalism that rules by necessity the souls of Creator, and created; this doctrine was also held by the ancients, we may in support of this quote the following lines of Virgil, *Æneid* Book II. 650:

‘ Talia perstabat memorans, fixusque manebat.
 ‘ Nos contra effusi lacrymis, conjuxque Creusa,
 ‘ Ascaniusque, omnisque domus, ne vertere secum
 ‘ Cuncta pater, fatoque urgenti incumbere vellet.
 ‘ Abnegat, inceptoque et sedibus hæret in isdem.’

In the Vedantic System we also have five doctrines; three of which are the same as those already referred to in the Sankhya system; namely, ‘Soul is eternal;’ ‘the doctrine of Transmigration;’ ‘the doctrine of fate;’ the remaining two are—

1st, ‘God is identical with matter,’ or ‘the whole universe is Brahma.’ ‘This spirit is every where; he is in the heavens; he is in the wind; he is Agni; he is in the earth; he is in the Soma Juice; he is in the pitcher of the Sacrifice; he is in men; he is in the Gods; he is in the ether; he is the productions of the water; he is the productions of earth; he is Om; he is the productions of mountains; he is unchangeable and vast;’ (Katha v. 2)

‘He is the ear of the ear; the mind of the mind; the speech of speech; the life of life; the eye of the eye. (Tal. 2)

‘He dwells in all space. He pervades the mind, and rules over life and body; he is in the body close to the heart.’ ‘The perfect one with a thousand heads, a thousand eyes, and a thousand feet; pervades the earth and the illimitable universe.’ ‘On me is the universe suspended like pearls on a string.’ (Gita, VII) All these illustrations bring us to the end of this doctrine, namely, that the author of creation (Brahma) is of the same substance, as the substance and material of his creation, or, in other words, it is the doctrine of Pantheism.

2nd, ‘God is identical with the Human Soul’ or, ‘the human soul is Brahma.’

One of the most striking modes in which this doctrine has been laid down, is in the following passage taken from the Brihad-aranyaka; ‘Man is indeed like to a lofty tree; his hairs are the

'leaves, and his skin the bark. From his skin flows blood, like juice from the bark; it issues from his wounded person like juice from a stricken tree. His flesh is the inner bark, and the membrane, near the bones, is the white substance of the wood. If then a felled tree spring anew from the root, from what root does mortal man grow again, when hewn down by death?' That root by means of very deep and logical reasoning is shown to be Brahma.

In the Artureya, we have a full description as to the manner in which Brahma entered the Human Body, in order to make it his abode. After a long and not at all uninteresting dissertation aiming to show how it was that he could not enter by any of the natural openings of the body, it is asserted as a fact that admits of no doubt whatever, that he entered by one of the joints of the plates in the skull, descended an artery, and took up his abode in the heart; his size, being made to correspond with the dwelling, is stated to be the size of a man's thumb. 'The perfect one of the size of a thumb only, abides in the centre of the Soul.' It naturally follows therefore that the soul in which Brahma is enthroned must partake of his divine attributes. 'That soul is without faults; devoid of old age; without death; without sorrow; without hunger and thirst; true in its desires; true in its will.'

'It is not born, neither does it die; it has not proceeded from any; nor has it been changed into any; nor does it perish when the body dies.'

'It is constant, capable of going anywhere, immovable, eternal; it is inconceivable, invisible, unalterable. The sword cannot cleave it; fire burns it not; water cannot wet it; the wind drieth it not away.' The belief of a divine origin, in one mode or other, for human souls, is in Greek Philosophy almost universal.

In the Nyaya system we have three doctrines set forth; two of which doctrines are the same as those already stated in the Sankhya and Vedantic systems, namely, 'Soul is eternal,' and 'The doctrine of transmigration of Souls'; the remaining one is, 'Matter is eternal in atoms'. The definition of an atom, as given by Kanáda, the founder of this system, is 'something existing without a cause; without beginning and end; it is contrary to what has a measure'. All objects and products are traced back to nine substances; Time, space, soul, and mind; ether, air, earth, fire, and water; of earth it is said, 'earth, is the cause of odours, and is the site of various colors. It has three kinds of feel; hot, cold, and temperate. It is two-fold,

'eternal and non-eternal; eternal as considered in its atoms; non-eternal as being composed of parts.'

All aqueous compounds, snow, hail, and rivers; all compounds of light, fire, and gold; are said to have an atomic origin, and their atoms are eternal.

Mr. Colebrooke gives the following Sketch of the atomic argument of Kanáda; 'The mote in a sunbeam is the smallest perceptible quantity. It is a substance—an effect; and is therefore made from something less than itself. This something is also an effect, and is a substance. It is composed of something smaller, and that smaller thing is an atom. It is simple, else the series would be endless. If so, every thing, great and small, would contain an infinity of particles; and all would therefore be alike. The first compound consists of two atoms. One cannot form a compound, and there is no argument to prove more than two. The next consists of three double atoms. If only two were conjoined, magnitude would not result; since that can consist only from the number or size of the particles. It cannot be size, since they are atoms; it must be number. There is no argument for four because three such double atoms are sufficient. The atom then is equal to one sixth of the mote of a sunbeam. Two earthy atoms brought together by some cause (the will of God, time and the like) make one double atom. Three double atoms equal one tertiary atom. Four tertiary atoms make one quaternary; and so on; thus it is by aggregation that the gross earth is produced. In like manner, from aqueous atoms come forth, by aggregation, all watery substances, organs and organisms. So also from the atoms of light and air, the compounds classed among them. Pressure and velocity produce an union of the integrant elements. Disjunction separates them; and as by aggregation substances are formed, so by disjunction they are broken up, and return inversely to the original atoms. The qualities of the original atoms attend them in the compound substances, and it is from them, that the compounds derive the qualities which they possess.'

Such then is a brief sketch of the chief errors that lie at the root of the Philosophy of the Hindu schools; errors that have blinded the eyes of both the priesthood and the people, to the glorious revelation of Truth; errors that are grounded on the sayings of fallible men, founded on the traditions of bye-gone ages, and veiled in superstition and idolatry. But how strongly must that error be rooted in the minds of the millions of India, when after the lapse of ages, after numerous contests with spiritual and temporal powers, we find that the number of those whose

eyes have been opened, from whose hearts has been torn the veil of sensuality and vice, is as nothing.

Will the Hindu ever believe the Truth? or will he still continue, notwithstanding the enlightenment of the present age, to bow down to his images of wood and stone? will he ever remain the slave of sensuality and vice, the mere tool of a priesthood whose livelihood is gained by the propagation of the deadliest and foulest falsehood? The solution of these questions is beyond our province. But we fear that the result, so far, of the admission of Truth into the benighted mind of the Hindu is but too truly depicted in the following words. 'I cannot deny the force of your arguments, Satyakama, and yet I am far from being convinced. The result of our conferences hitherto has been to weaken the foundations of human belief, and foster a spirit of universal scepticism. There must be a grave error somewhere in all this. To disprove a certain position is not to find out the truth. And if there be no truth in the texts of the Vedas, or the aphorisms of philosophers, where are we to go in search of it? The characteristic of righteous men is to set forth *Faith*, as the poet says, and not scepticism. Our studies, speculations and discussions cannot be considered successful, if they end in the conclusion that there is no truth in the world. Our faculty of reason could never have been granted by the Almighty for *that*; it is doubtless intended to put us in possession of some definite and positive truth, to discover His will in nature and in His word; for it is preposterous to think of discovering His will for all practical purposes *without* His word. Surely He could not have left us in the dark, destitute of a revelation of His will. Like yourself, I find it difficult to believe that He would be deliberately deluding us by the projection of an illusion. But I cannot, on the other hand, understand that He would leave us without an *ágama*, or revelation, to follow our own bewildering reason in things beyond its range, and thus in another way, consign us to inevitable delusions. Hence my still cleaving to the hope that the Vedas may contain His word, notwithstanding all you have said. We must have something on which to repose our faith, or our minds must be tossed to and fro by the waves of doubt and disputation, like a boat without a rudder on stormy waters. I cannot say that our conferences have at all tended to the discovery of that *something*.*'

* Banerjea's Dialogues on Hindu Philosophy.

ART. VIII.—*Resolution regarding the Sale of Waste Lands and Redemption of the Land Revenue. Oct. 17th 1861.*

IF we could add promptitude and decision to the other attributes of Lord Canning we should have, in ordinary and peaceful times, but little to complain of and, perhaps, much to commend. Slow justice, when it might be speedy, is an active wrong, and wrongs of this description tarnish and rob of the grace, which would otherwise attach to them, nearly every act of Lord Canning's administration. Such opportunities—trying ones no doubt—have never fallen to the lot of any former Governor General, and three months ago he might have said he had missed them all. It was his misfortune to commence his rule in a strange land in troublous times, and had he gone away when they ceased he would have been known only as the man who stood calmly at the helm, while the crew in spite of the wheel having frequently turned the wrong way saved the great ship from foundering. To have been in a high position in a time of great danger, is a distinction of itself, and Lord Canning would have carried away no other had he quitted India in 1858. Fortunately for his fame the last two years of his rule fell in progressive times. He has suffered himself to be pushed forward, not with railway speed to be sure, but still forward, and he may now quit India without shame, if not with absolute satisfaction, leaving behind him perhaps more regret and esteem than we could have at one time deemed possible.

The Resolution of the 17th of Oct. last regarding the disposal of Waste Lands will, although it is not his own, and he has taken three years to consider it, associate the name of Lord Canning with the wisest, most liberal and comprehensive reform that India has yet seen. It is so wise and simple that the question may be reasonably enough asked why it was not done sooner. Lord Canning says, 'As regards the sale of Waste Lands, there can be no question of the substantial benefits both to India and to England which must follow the establishment of settlers who will introduce profitable and judicious cultivation into districts hitherto unreclaimed. His Excellency in Council looks for the best results to the people of India, wherever in such districts European settlers may find a climate in which they can live and occupy themselves without detriment to their health, and where

‘ they may direct such improvements as European capital, skill and enterprise can effect in the agriculture, communications and commerce of the surrounding country. He confidently expects that harmony of interests between permanent European settlers, and the half civilised tribes, by whom most of those waste districts or the country adjoining them are thinly peopled, will conduce to the material and moral improvement of large classes of the Queen’s Indian subjects, which for any such purposes have been long felt by the Government to be almost out of the reach of its ordinary agencies.’ There is not a word in the above which might not have been written with equal truth half a century ago, and if it had been then written and acted upon, we should have probably been spared the horrors of 1857, have had a surplus revenue, justice properly administered, roads and railways where we have now only the track of the wild beasts. Every sentence of Lord Canning’s Resolution is a condemnation of the policy which excluded the Englishman from the land which his fathers acquired by right of conquest—the only right if we go back a few centuries by which Englishmen hold England, or we shall make it more apparent, if we say Ireland. Ireland for the Irish is as wise and just a cry as India for the Indians, and by all means let the rights of both be respected. But have Englishmen ever been forbidden to purchase, drain, or otherwise improve a bog in Ireland lest the rights of the people should suffer?

The terms upon which Lord Canning offers the Waste Lands are generally liberal and fair, but their fairness and liberality are rendered more striking by contrast with the narrowness of the measure hitherto proposed than from any intrinsic generosity of their own. Such a Proclamation would have been received in any other of Her Majesty’s possessions with nothing more than the ordinary acknowledgements due to a simple act of common justice. It is only in India that justice is looked upon as a boon to which no claim can be established. The Australian will read with wonder the praise which has been so lavishly bestowed upon Lord Canning by the Indian Press, for granting to his countrymen in India a right which he has always possessed, and had scarcely experienced a sensation of gratitude for. Liberality and freedom are comparative—and we are not disposed to cavil at what we have now obtained because others have more and we should have had it sooner. There are to be no resumptions, no right of interference, no compulsory cultivation and (think of it ye ex-Directors, ye Civilians of the old school,) no visits from Collectors! Truly India is advancing when men are to be allowed to do what they like with their own land. Lord Canning says:—‘and as a

‘ general rule, and whatever may be the nature of the growth which covers the soil, His Excellency in Council would wish, in this as in all other matters, to leave it entirely to the owner’s judgment and self-interest to make the best of a grant, for which he has once for all paid a fair price to Government.’

Let us now see what Mr. Grant’s notions of fee-simple are. Rule VII, after stating the exact area of his own property, which a man is to be compelled by legislation to bring into a condition which shall yield him a profit, goes on as follows. That one eighth of the ground shall be cleared and rendered fit for cultivation by the expiration of the fifth year from the date of sale. That one fourth of the grant shall be cleared and rendered fit for cultivation by the expiration of the tenth year. That one half shall be cleared and rendered fit for cultivation in the twentieth year. That three fourths shall be cleared etc. by the end of the thirtieth year.—‘That on the failure of all or any of these four conditions, the fact of which failure shall after local enquiry conducted by the Collector or other Officer be finally determined by the Board of Revenue, such portion of the grant as shall remain uncleared shall be liable to forfeit, etc, etc. The Government reserves to itself the right of making and constructing such roads and bridges as may be necessary, * * * and also to such timber, stone and other materials as may be required etc.’ Fee-simple with a vengeance! This is the last effort of the old service, and it is no doubt to the credit of Lord Canning that he has had the courage and the wisdom to set aside the policy of centuries. To Lord Stanley we believe the credit of originating this just measure is due, the details only being left to Lord Canning, and he has taken three years to arrange them. They have been received with more gratitude than appears necessary, for they are still incomplete. The limitation of the area is a useless clog, and we are almost disposed to believe that Mr. Grant must have obtained access to the drawer in which the Resolution was placed and inserted it on his own account. It is simply vexatious and useless, being easily evaded and in the case of large companies evasion will be a necessity, for three thousand acres will not give scope for the extensive cultivation of either Tea or Cotton. In Australia a very different system was adopted, and in order to encourage large purchases special privileges were allowed to the buyer of 20,000 acres, or as it was then called, a special survey. He was at liberty to point out his own boundaries and no competition was allowed as in the case of small lots of 80 to 100 acres. Lord Canning’s remarks are sufficiently undecided to leave

us a strong hope that with proper representation this objectionable restriction will be either altogether abandoned or at least modified to meet the wishes of the public. He says—‘it will generally be safe to consult the wishes of intending applicants on this subject, when they are in numbers sufficient to give weight to their opinions, as to what general limitation is likely to be best for the general interests.’

The remedy would, from the above appear to be in the hands of those interested, and a petition might, if time permitted, be addressed with every chance of success to Lord Canning. His lordship has already been appealed to on the subject of the liberties taken with his Resolution by the various local Governments, especially those of Oude and the North West. The apprehensions entertained by holders of grants under the old Rules regarding the rates at which they will be allowed to commute, we believe to be groundless. It is feared that the higher rate of Rs. 5 per acre will be charged for all land cleared and rendered fit for cultivation at the time the commutation takes place. There can be no doubt that para. 29 of the Resolution refers to the state of the grant when it was first obtained, and not to the state to which the capital and energy of the grantee may have brought it. It is a curious comment upon the estimation in which the Government is held that the supposed intention to commit such a manifest injustice should have been credited for a moment, and shows that the feeling of distrust has not yet passed away.

The permission to redeem by one payment the land Revenue is a measure which, if generally availed of, would for ever ensure the loyalty of the Zemindars. Their interests would be so bound up with ours that the permanence of our rule would be the one thing needful to their existence as landholders, and we should have nothing to fear. With a diminished native army and a Revenue paid a quarter of a century in advance, we might depend upon twenty-five years of unswerving loyalty on the part of the influential classes. It is a new measure, but we fear it will not be availed of to any great extent. Payment before it is compulsory is especially abhorrent to a native, and we doubt if even exemption from the interference of the hated Collector or the abolition of the dreaded *Kist* day will prevail. Apart from the fact that the native generally prefers the present to the future, there are many causes which will operate to prevent the redemption to any great extent. Many zemindars are poor and in debt, and it will be impossible for them to borrow at the rate allowed by Government, viz., twenty years' purchase. It is also very doubtful if their faith in the stability of our

rule is sufficiently great. While the tax was only a percentage upon the yield of the land, it mattered little to whom it was paid, whether to the King of Delhi or the English Government, but a tax once redeemed in the manner proposed, is a virtual entering into partnership with a Government which, we doubt not, many deem, if not absolutely bankrupt, at least very unstable. That such a belief should be common amongst the natives of India need excite no wonder, for it has been freely discussed in the English Parliament and the Press, and it has more than once been suggested that we might do worse than abandon a country which has, it is alleged, frequently proved a source of weakness and not of strength.

The inconsistency, to say nothing of the injustice, of allowing Native and other Uncovenanted officials the privilege of holding land, while the same liberty was denied to the higher and generally more honorable covenanted officer, has been often pointed out. The Native Judge may and frequently does purchase large tracts of land in the district in which he holds office, while his superior in every sense of the word, the English judge, is forbidden to purchase or hold in his own name so much as the garden or compound that surrounds his house. This rule was only relaxed after death when the Judge or Commissioner might share, to an extent proportioned to his size, in the permanent settlement of the nearest church-yard. The recent order on the subject is practically worthless. We want that the men, who make the laws and administer them, shall have an interest in their utility and applicability, which can only be obtained by giving them, or allowing them to acquire, property which shall be affected beneficially or otherwise according as they are good or bad, or as they are well or ill administered. If the Bengal civilians were to divide Madras and Bombay Presidencies between them, it would give them no interest in the improvement of Bengal. They would have no motive beyond the motive of doing their duty, and, giving them credit for the most scrupulous conscientiousness on this point, we know that human nature is weak, and that in all probability if Mr. Grant had been the owner of two three Factories in Jessore we should have had no Indigo crisis, and far less injustice than has been perpetrated during the last two years in the Indigo districts. The qualification for the Directorship in any company is the possession of a goodly number of shares, and it is a wise one. The Civilian has no shares, and there are no roads, in Bengal. If the Civilian had been a shareholder we should never have had a law* virtually depriving

* Act X of 1859.

the Zemindar of all right or title to his land if he had been foolish or good natured enough to allow a Ryot to occupy it for twelve years without disputing the right of occupaney or raising his rent. Let the Civilian and the Law-makers have an interest in the land and the Commerce of India, and we shall then hope for suitable laws and not till then.

CRITICAL NOTICES.

OF WORKS ON INDIA AND THE EAST.

A Treatise on Attractions, Laplace's Functions, and the Figure of the Earth. By John H. Pratt, M. A. Macmillan & Co. Cambridge (and sold by Messrs. R. C. Lepage, & Co. Calcutta). Second Edition : pp. 122.

This book is chiefly a republication of a portion of Archdeacon Pratt's larger work on the 'Mathematical Principles of Mechanical Philosophy,' published at Cambridge twenty-five years ago, with additions suggested by circumstances connected with the Great Trigonometrical Survey of this country—and for this reason we notice it in these pages. Some time since a reference was made to the author by the late Surveyor General regarding the effect of the attraction of the Himalaya Mountains upon the plumb-line, by which the instruments of observation are fixed with reference to the vertical. In the measurement of the two portions of the Great Arc of Meridian in the longitude of Cape Comorin, and lying between Kalia (lat. $29^{\circ} 30' 48''$) and Kalianpur ($21^{\circ} 7' 11''$) and between Kalianpur and Damargida ($18^{\circ} 3' 15''$), Colonel Everest, the previous Surveyor General, had found that the first came out greater by $5''.24$, and the second less by $3''.79$, than the corresponding arcs marked out in the heavens by the verticals or plumb-lines at the terminal stations. These errors are equivalent to about 1-10th and 1-14th of a mile. This was a very unexpected result. For in the course of the laborious survey he had *abandoned* one station (Takal Khera), although much time and trouble had been bestowed upon it, because he found that a neighbouring line of elevated table-land affected the plumb-line at that place by a quantity somewhat less than $5''$, that is, less than the larger of the two quantities under notice. Moreover he had selected Kalia, the highest station north, so far from the foot of the Himalayas as to be, as he thought, altogether out of the influence of that mountain region. The existence of these two outstanding errors, notwithstanding the care bestowed, was therefore viewed with disappointment.

The question proposed by Sir A. Waugh to the author of the treatise before us was to account for these errors. The first seemed most likely to arise from mountain attraction; but the second lay the other way, which was inexplicable. The results of Mr. Pratt's investigations, with the details of calculation, are published in the volumes of the *Philosophical Transactions* for 1855, 1859, 1860; and the mathematical principles and formulæ by which they were obtained are demonstrated in the present treatise. He has shewn (1) that the effect of the Himalaya Mountains is very much greater than had ever been conceived, producing in reality deflections of the plumb-line far greater than the errors to be accounted for; so great is the effect that their influence is felt, not merely at Kalia, but all over the continent of India; (2) that the deficiency of matter in the Ocean south of India has a similar effect, although it had never been imagined that any disturbing influence could proceed from that source; and (3) that even such slight variations in the density of the solid crust below, as are very likely to exist, but are hidden from our eyes, will have the same effect. These three sources of disturbance give a new importance to the problem of attraction. The methods of calculation are laid down in the fourth Chapter of the first part of this treatise; pp. 43—62. The effect of these causes of derangement is such, that the latitude of a place obtained from an observation of the sun or other heavenly body, in which case the plumb-line is used to obtain the vertical, may be out by as much as half a mile, more or

less according to its situation (p. 118). This result seemed to deprive the important survey operations of this country of that high character for accuracy which they have borne.

In prosecuting the subject further, however, Mr. Pratt has demonstrated a property of the arcs which very much overcomes the evil effect of these large disturbing causes. The property is this. Let the latitude of a station, taken as a starting point, be found by a celestial observation. This will be wrong, by the whole amount of local attraction at that place, causing the plumb-line to deviate from the true vertical. Connect this place with other places by measuring the arcs which join them. Find the latitude and longitude of these places by applying these measured lengths to the trigonometrical formulæ of Conic Sections used in survey operations, remembering to use the *mean-axes* of the Earth in the calculation, and the resulting latitudes and longitudes of these new stations will be affected with the same errors as those which affect the starting point, but with no others. Hence, this important result: the *relative* position of places marked down on a map, as determined solely by geodetic calculations, is quite correct; but the map as a whole will be wrong in its position on the terrestrial spheroid by the whole error in the observed latitude and longitude of the starting point (see p. 118). If the latitude and longitude of any of these places laid down in the map are also obtained by observations on the heavens they will in general be different to those marked in the map; the difference arises from the difference of local attraction at that place and at the starting point. These differences of latitude and longitude are therefore the correct measures of the differences of local attraction at the several stations and at the starting point. (p. 116). Thus suppose we start from Damargida and observe its latitude. This will be wrong by the whole amount of local deflection at that place. But the latitudes of Kalianpur and Kalia, derived from that of Damargida by means of the measured lengths of the joining arcs and the mean axes, will be correct relatively to Damargida and to each other. But a comparison with the heavens, shows that there is local attraction at Kalianpur and Kalia different to that at Damargida, such as to make the plumb-line at Kalianpur hang $3''.79$ more towards that at Damargida than it otherwise should do, and that at Kalia $5''.24$ more from that at Kalianpur than it should. These quantities, then, which Colonel Everest detected, are (supposing his observations and calculations all correct) the accurate measures of the difference of local attraction at the several places (p. 117). This we regard a most satisfactory termination of the enquiry.

We say "termination." There is, however, one desideratum yet; viz. a means of determining the absolute latitude and longitude of some one place, by which the map may be correctly fixed. But we learn from the author of this treatise, by personal communication, that there is no prospect of this ever being discovered: it is so impossible to get altogether out of the influence of local attraction; and even to know that we are so, if we happen to be in a spot where all influences exactly balance each other.

The Treatise before us, besides giving a concise but complete view of the interesting problem of the Figure of the Earth, treated both mathematico-physically and geodetically, contains discussions and solutions of such problems as these; The thickness of the earth's solid crust is great (p. 83): The form of different parts of the earth's surface differs from that of the mean form (p. 100), a thing which geology would *a priori* lead us to expect (p. 101): Geodesy furnishes no evidence how much geological changes have affected the level (p. 118): The sea-level is much affected in some places by local attraction; the level at Karachi is nearly 600 feet higher than at Cape Comorin from this cause (p. 122).

History of the Siege of Delhi, by an Officer who served there, with a sketch of the leading events in the Punjab connected with the Great Rebellion of 1857. Edinburgh: Adam and Charles Black.

History becomes more and more authentic the further we recede from the time and events described. How incorrect and unjust were the opinions entertained of Cromwell before Carlyle collected the materials for a faithful account of the great Protector, and gave them to the world in a way that only a soul imbued with similar grandure could have done. To the same untiring pen we owe our knowledge of the inner workings of the French Revolution. He tells us what it really was that made people cut each other's throats in such a mad way. The facts of an eventful period must be collected at the time and by the chroniclers of the day. The grouping of the facts and the deductions from them must be left to calmer and more impartial minds. An account of the Battle of Bull's Run written at Richmond the next day by an enthusiastic Southerner would be of as little value to the historian as one written by a New York senator, though some grains of truth might be obtained by a careful comparison of the two. This general rule serves to guide us in the study of great events where the true motives of men are too deep, and the circumstances that surrounded them too varied, to be apprehended by one generation, and where opposite opinions are held, perhaps with equal conscientiousness, by the parties of the day. This applies in a more limited sense to the description of events to which there is but one side, or at least but one with which we have anything to do. Here facts are wanted—what was done rather than what was thought or intended; and the chief object of narrators should be to gather new facts, to explain the old as they go on.

The materials are gradually being collected for a comprehensive history of the mutiny. Among them is much wood, hay and stubble, but the book we are about to notice represents true metal, perhaps brass or iron, in the structure of which it forms a component part, and where it will in course of time find its appropriate place. Though wanting, perhaps, in that ardent and exciting tone which characterised works written during the progress of the mutiny, it has the advantage of being a complete sketch of the event around which all others clustered, and but for the success of which India might have been lost to us. The author, a member of the Indian Medical Service, is peculiarly fitted to describe the Siege of Delhi. He has waited till the whole drama is finished, before presenting his description of it to the public. Unlike some officers who have been led to publish to the world narratives of events in which they were the accidental and astonished actors, hurried along by the rapid march of events, and without a thought of the prominent part they played in the scenes through which they passed until all was over and the desire to become authors suddenly arose in their minds, the author of this interesting volume evidently entertained the intention of writing a detailed account of the siege while it was going on before him. Subsequent leisure has enabled him to correct his notes by all the available official documents and other reliable sources of information. The result is an account of the Siege of Delhi, which must be looked upon as final, so far as that act of the great Mutiny drama is concerned. He has been able to correct several slight errors of fact into which the author of the *Red Pamphlet* and others have fallen. It is chiefly as a chronicle of facts, that this book is valuable. The information is conveyed in a graceful and perspicuous style, but in his deductions and generalizations, though generally sound, we are not aware that the author has propounded anything new. He states his views fearlessly and distinctly, but not always with that evidence of breadth and depth of thought which carry conviction with them.

Beginning with a rapid sketch of the rise and fall of the successive dynasties by which India has been held since the brilliant entry of Mahmud of Ghusnee, the first Mahomedan Conqueror, he comes to the conquest of the Punjab and the annexation of Oude. His opinions of Lord Dalhousie and his policy are unfavourable. He might, however, have supported his opinions by a greater array of argument than he does. Such great questions are not to be so lightly dealt with. He says on this point:—

‘This immense accession of territory did not satisfy the Governor-General, Lord Dalhousie. A policy came into fashion, the programme of which was to seize all the independent states of India. A few common-places upon the predominance of the Anglo-Saxon race were thought sufficient to justify the iniquity of the scheme. Lord Dalhousie followed it up. He assembled an army, and, without any previous declaration of war, or cause of hostility, and contrary to the express promises of his own Government, stripped the King of Oude of all his possessions. The alleged cause was that the country was ill governed. The “atrocious Macchiavellism,” that one power has a right to invade and seize upon the dominions of another, because it believes it can govern them better, might soothe the feeble disapproval which the measure met with from some at home, but nobody in the East believed we had such philanthropic motives for the action. It was not forgotten how, a few years before, we had sold the beautiful valley of Cashmere for a sum of money, to Golab Singh, one of the most odious tyrants that ever desolated Central Asia, and had lent our troops to force the people to submit to his hated sway. The Mahomedans have a close sympathy with one another; to degrade a prince of their religion is to put out one of the lights of Islam. The King of Oude had long been our friendliest and truest ally. The country might be ill governed; most eastern countries are so; but one thing is clear, they preferred the rule of their native princes to ours. Moreover, the great part of the sepoys in our service came from Oude, where they retired after having gained their pension. Under the native rule they enjoyed privileges, such as exemption from some taxes, which were lost to them under that of the British. Hence even the Hindoo soldiers were very much disgusted with the seizure of Oude. They expressed their indignation in the most open manner, and told the King that, if he had resisted, they would have thrown down their arms and fought for him.’

To meet these immense additions to our territory there was no increase of the European troops in India. Some of them, indeed, had been sent away to the Russian war, and others to the recently conquered province of Pegu. The King of Oude’s army amounted to nearly sixty thousand men, and large bodies were in the pay of the nobility. There were said to be two hundred and forty-six forts in the country, none of which were dismantled. We took into our service about one-fifth of the regular army, and disbanded the rest, and, to keep all down, placed one regiment of British soldiers in the city of Lucknow. Lord Dalhousie, it is true, applied for more troops. The Government, however, seems to have thought, that, since he could quietly seize upon a large kingdom without reckoning on any reinforcement, none was needed to retain possession of it. Lord Dalhousie was a man of great administrative ability and energy, but everything he did seems to have drifted the native army to mutiny, a danger of which he certainly was not sufficiently prescient.’

The cause of the Mutiny he ascribes to a combination among the Sepoys to defend themselves from the threatened deprivation of caste, taking afterwards a wider aim. He says, “there is not a particle of proof that any Mutiny “would have occurred in 1857 had it not been for the greased cartridges.”

As the leading incidents of the rebellion are so well known we shall confine our remarks, for the most part, to those parts of the volume which present anything not found elsewhere and to its general merits and demerits. Passing over the story of how we lost Delhi—how the gallant Willoughby defended the magazine to the last, and then blew it up with two thousand of his country’s enemies—regardless of his own life if he could but gain anything for the British cause by a noble death—how he escaped as if by a miracle from the scene of destruction, fled through the Cashmere gate, and reached Meerut only in time to die, we come to the days when the spirit of the British Soldier was up all over the North of India—when avenging hosts assembled and marched to the city of the Moguls to try whether right or wrong should triumph.

'The nights were delicious, the stars bright in the dark deep sky, the fire-flies flashing from bush to bush, and the air, which in Europe would have been called warm and close, was cool and refreshing to the cheek that had felt the hot wind during the day. Along the road came the heavy roll of the guns, mixed with the jingling of bits, and the clanking of the steel scabbards of the cavalry. The infantry marched on behind with a dull deep tread;—long lines of baggage, camels, and bullock carts, with the innumerable sutlers and camp servants, toiled along for miles in the rear, while the gigantic elephants stalked over bush and stone by the side of the road. Yet our hearts were full of bitterness. How many had led, in the opposite direction, the very soldiers with whom they were now going down to fight;—led them to dethrone Dost Mohammed,—to avenge our countrymen lying bloody and cold in the Kyber Pass, or to turn the doubtful tide of war against the Sikhs! We felt as if our dearest friends had betrayed us.'

At last active operations commenced before Delhi. Our troops encamped under its walls and vowed to take it or die. Then deeds of daring were done, unequalled in the history of our race. Then men sprung up for whom time had kept this occasion in store to do the work they had been born for. The occasion was great, but the men were not wanting. They started up on every side as they always have started up, and always will, wherever there is great work to be done and Englishmen near at hand to do it. As the siege progresses, the list of heroes increases. We must select two on whose characters the writer has dwelt with lingering admiration—Tombs and Hodson.

'Tombs was henceforth the hero of the force. He had reached the aim of a soldier's life. On his first entry into the Company's army, he had served with great distinction in the wars of the Punjab, and his talents had been marked by the keen and wise eye of Sir Charles Napier. He had been made brevet-major when only a lieutenant of artillery. His gallantry at Ghazecodeenuggur had made him conspicuous from the beginning of the siege of Delhi. He had had up to this date five horses shot under him. Danger seemed to seek him out only to leave him untouched. At this time he was in the flower of manhood; above the middle height, broad shouldered, deep chested, and very handsomely made. He had coal-black hair, and beauty and strength seemed to struggle with one another in his countenance. Another name which began to vie with Harry Tombs' was that of Hodson. They seemed to have little in common save distinguished soldier-ship. Hodson entered the Company's army as a cadet of infantry, rather older and better educated than cadets generally are. He gained great credit as a daring partisan officer in the wars of the Punjab. After they were over, Sir Henry Lawrence had tried him in various tasks; and by his countenance he rose to the command of the newly raised Guides. From this height he was precipitated by an accusation of mismanagement in his regimental accounts. The opening of the mutiny found him doing duty with his original regiment, the 1st Fusiliers. But though the accusation, of which he was never found guilty, and which there is reason for believing was groundless,* still weighed him down, he was too well fitted for those dreadful times to keep the level of a subaltern. He was placed at the head of the Intelligence department. Wherever danger was, there also was Hodson; whenever the enemy came out of the gates, Hodson was seen, with his loose hanging rein, followed by a dozen of wild-looking sowars, leaning easily on their carabines at full gallop. In a quarter of an hour he was back with the news of their whereabouts. He had also been charged to raise a new native regiment of irregular horse, an undertaking almost impossible in those times of dissolution and desertion. In figure he was tall and spare. His light reddish hair left the top of his head uncovered. He had a high forehead, aquiline nose, and haughty Roman features; there was a light in his eye which looked as if half kindled. His manners were distant and supercilious; ordinarily he spoke little and answered in few words. His dress was plain, but that of a man continually in the saddle. Tombs, on the contrary, understood the effect of dress, was fond of speaking, especially on military

* All this was written before a perusal of the life of Hodson, published by his brother. It of course contains an elaborate and, as far as it goes, a successful defence of the hero. Nothing may be thought incredible of the Audit Office, which has ever shewed the most ostentatious suspicion of military officers, and is often allowed to treat them with great harshness; but probably the haughtiness of Hodson's character raised him many enemies, who formed a combination against him. We also see from his letters that he had plenty of concealed vanity.

matters, and, though impatient of flattery, seemed to care more about the good opinion of others.'

There was a day to which the thoughts of all engaged in the siege turned with anxiety—the first day of the new moon, sacred to the Mahomedan—sacred also to the Hindus, as the festival in honour of one of their favourite divinities—and the day, moreover, on which just one hundred years before, the English first gained their supremacy on the celebrated field of Plassey. Prophets, Astrologers and Sages had predicted that the reign of the white-faced strangers would end on that day, but the event showed that they lied. The opposing powers trembled in the balance that day in the Subzi Mundi, but our gallant soldiers still maintained their place, and the enemy who had rushed out in such overwhelming numbers and with such savage glee were turned back dispirited and overcome. Such great efforts could not be made by the besieged every day, and from that time the spirit of the rebels may be said to have declined. As time wore on and success was almost invariably with us, the state of things inside the city became deplorable. As was to be expected where men of various creeds and interests attempted to work together in the same unrighteous cause, disputes broke out and the angry passions of wicked and designing men led to an amount of disorganization, which could not but end in ruin. The old King, a mere puppet in the hands of some of his unruly courtiers, let things take their course, enjoying his mimic Court and Crown, which in the ordinary course of nature would soon cease to be his, and which every day of rebellion and confusion within the city, and English success without, rendered less secure. Sometimes the princes and courtiers would come into the batteries when the firing was slack, with gay shields on their arms, and wrapped in jewelled Cashmere shawls; but a round shot would send them down the slope tumbling over one another. As a last flicker of the flame of the Mahomedan power in Delhi, a kind of revival of religion took place. High cast Hindoo soldiers were converted to El Islam; even Brahmins broke their threads. A Millennium was to commence. But all without avail. The King's authority diminished from day to day, reinforcements arrived in the British camp, and the hopes of the soldiers revived. An incident occurred during the skirmishes preparatory to the assault, which should be noted here, as several accounts of it are given, and the author has reason for believing this to be the correct one. It is the encounter of Lieutenant Hills with some rebel Sowars.

'In a moment about a hundred and fifty sowars swept round by the fakir's enclosure upon the picquet. The carabinieri turned and fled without firing a shot, leaving their officer behind. The 9th Irregulars sat passive on their horses; Lieutenant Hills ordered his guns to be unlimbered, but there was no time. The idea of creating a diversion for a moment, by charging the enemy, came into his mind. He spurred his horse upon them, cut down one or two, but was presently unhorsed. The artillerymen galloped off with the guns towards the park, and the enemy's troopers rode away to the rear. Hills was left lying on the ground; his sword had flown out of his hand, and a sowar was stooping over him to kill him, when Major Tombs, who had run out of his tent on the first alarm seeing the danger of his subaltern, fired his pistol about the distance of thirty yards, and dropped the man. Hills was on his legs, and had again got his sword, when they saw another sowar going off with the young officer's pistol. They both set upon him; he was a nimble fellow and good swordsman, and for a minute kept them both at bay. He brought Hills to the ground with a severe cut on the head, and made a powerful stroke at the other, dividing his pugri and forage cap to the hair, when he received the deadly thrust of Tombs.'

Those were wild days in the British camp. So many officers and men had lost friends and relations in the Mutinies that a horrible feeling of revenge arose, a mad cry for blood, which was natural at the time, but which we cannot look back upon without a feeling of awe. Considering the provocation they had endured it is wonderful they acted with such self-control as they

did, and though there were instances of undue fierceness, the general tone of conduct was such as no other body of men would have evinced. In August as the preparations for the final assault were progressing, a hero came upon the scene who is thus described.

'About this time a stranger, of very striking appearance, was remarked visiting all our picquets, examining everything, and making most searching inquiries about their strength and history. His attire gave no clue to his rank; it evidently never cost the owner a thought. Moreover, in those anxious times every one went as he pleased; perhaps no two officers were dressed alike. It was soon made out that this was General Nicholson, whose person was not yet known in camp; and it was whispered, at the same time, that he was possessed of the most brilliant military genius. He was a man cast in a giant mould, with massive chest and powerful limbs, and an expression ardent and commanding, with a dash of roughness; features of stern beauty, a long black beard and deep sonorous voice. There was something of immense strength, talent, and resolution in his whole gait and manner, and a power of ruling men on high occasions, that no one could escape noticing at once. His imperial air, which never left him, and which would have been thought arrogance in one of less imposing mien sometimes gave offence to the more unbending among his countrymen, but made him almost worshipped by the pliant Asiatics. He seemed to disdain any other than a ruling part, speaking rarely in ordinary society. Such a man would have risen rapidly from the ranks of the legions to the throne of the Caesars; but, in the service of the British, it was thought wonderful that he became a brigadier-general, when, by seniority, he could only have been a captain.'

On the morning of the 20th September, the Lahore gate was occupied by the British—it was the last footing of the rebels—On the evening of that day the whole city was in our hands.

'Old soldiers, who had fought at Cabul and in the Punjaub, said that a month at Delhi was more than a year's hard fighting any other where. We had put to flight a disciplined army four times greater than our own. The same men had gone out more than thirty times, to fight an ever fresh and swarming enemy. We had taken a strong city, defended by a more powerful artillery, in a sickly season and under a tropical sun. We had saved a falling empire. This, then, was glory which future ages would look upon and wonder at, and the present acknowledge with gratitude. The last of these hopes we soon found deceitful, at least as far as actions shewed. The war was barely over, when ten thousand of the soldiers who had saved India left the army, whose name they had rendered glorious, on a doubtful quarrel with the Government, which transferred them, without their consent, from the ranks of the Company to those of the Crown, withholding the bounty it granted freely to the rawest recruit; and Lord Canning announced in General Orders, that their period of service would not be recognized if they again entered our ranks—services painfully given, lightly forgotten. A few months after, many of the conquerors of Delhi and Lucknow were starving in the streets of our great cities, without even a medal to prove they had fought, while the Government held their prize-money in its coffers, and was showering rewards on native nawabs and ranas, the Lord Lovats and Secretary Murrays of the rebellion. About three years later, by a vote of Parliament, in disregard of the promises of the Ministry, and against the advice of all the greatest Indian statesmen then living, the Indian army was stripped of its privileges and separate existence. Future ages will no doubt have their own heroes to praise, mayhap to reward; but whenever the wise and noble-hearted turn over the page of history for a bright and glorious example, they will rest awhile on those that record the achievements of the "Delhi Field Force."

The daring conduct of Hodson in bringing the king into Delhi is almost without a parallel. He set out with 50 Sowars to the Kootub where the King was, and by his coolness and determination he was enabled to take him and bring him into the city. This scene and the following one where the Princes are taken and shot, form about the most interesting portions of the book. These two exploits raised the fame of Hodson to an extraordinary height. Attracted by his prowess, the brave flocked to his standard from every side. This is a picture of Delhi after the assault;—

'To a stranger the desolation of the great city would have been eloquent of the miseries of war. Save in the immediate vicinity of the houses in which soldiers were quartered

all was silent and deserted. There were no merchants sitting in the bazars; no strings of camels or bullock-waggons toiling through the gates; no passers by in the thoroughfares; no men talking by the doors of the houses; no children playing in the dust; no women's voices from behind the screens. Household furniture of all kinds was lying in the streets. The spectacle was made only more melancholy by traces of recent inhabitants. The ashes were still black in the hearths, and domestic animals were roaming up and down in all directions in search of their late possessors. The houses here and there burnt or shattered by cannon shot, and the fragments of shells scattered about, with rotten corpses now and then to be seen, half eaten by crows and jackals, gave a clue to the desolation around. The merchants had stuck to their shops to the last, and had been driven out only by the bombardment and the report of the fierce doings of the soldiers.

The shops and warehouses in the Chandney Choke were full of costly goods. Those containing jewellery were entered and cleaned out in a few minutes. A great deal of valuable spoil fell into private hands. From the very beginning all the property in Delhi had been declared to belong to the army, and prize agents had been appointed to watch over and realize the booty, but their means of doing so were small, and many difficulties were thrown in their way. To collect and guard such an immense amount of miscellaneous property, scattered over such a wide city, was very difficult. A great number of articles of value, such as necklaces, earrings, bracelets, anklets, and all the multifarious ornaments of native women, with piles of rupees, were found concealed under the floors, or in holes of the walls in the houses. The native servants roamed about over the city looting every-where. The European soldiers went about selling things. They had plenty of money in their pockets, which they spent with the recklessness common to their profession. Some private soldiers kept their carriages for a week or two. The temptation now and then proved too strong even for officers. Some of them carried away, and even presented to their friends, valuable jewels and costly shawls. An immense deal of property, useless to every one but residents on the spot, was broken and wasted. For every rupee gained in the way of plunder, there were twenty lost to the citizens. The native merchants, who had followed our camp, made their fortunes by buying the goods put up for auction by the prize agents.

The fall of Delhi had a wide and a lasting effect. There the rebels had their head-quarters, and though so many of them escaped, they never afterwards had that unity and power they possessed for the few months the Mogul capital remained in their hands. Had it not fallen, who can tell what the effect might have been on the whole of India. All eyes were turned upon it:—not only India's safety, but England's glory depended on the result of that ever memorable Siege.

And since, by ways so wonderful and by means so unexpected, God, who rules over all things, has given us the victory, let us hope that he will also teach us so to govern the people whom we have conquered, that our rule may be a blessing to them and not a scourge; and that he will grant they may learn from us the virtues which they so sorely need, and, adding them to the good qualities they undoubtedly possess, may become a light and an example to the fallen races of the East.

Thus closes a book which no one can read without a feeling of pleasure. It abounds in graceful pictures of scenes and delineations of men. Personal acquaintance with most of the leading characters has enabled the author to throw a charming reality over his descriptions. Nor does he forget that after the days of blood were over and gone, days of bitter suffering came to that rebellious city, when the British who had been so valiant in fight showed themselves true friends to the poor famished wretches who had rebelled against them. Delhi will ever remain a memorable name in the annals of British heroism, and no less so in the records of British magnanimity.
